



LAWS OF KENYA



**INSURANCE ACT**

CHAPTER 487

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**CHAPTER 487**

**INSURANCE ACT**

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## CHAPTER 487

## INSURANCE ACT

[Date of assent: 8th January, 1985.]

[Date of commencement: 1st January, 1987.]

**An Act of Parliament to amend and consolidate the Law relating to insurance, and to regulate the business of insurance and for connected purposes**

[Act No. 1 Of 1985, L.N. 363/1986, Act No. 18 of 1986, Act No. 12 of 1987, Act No. 13 of 1988, Act No. 9 of 1989, Act No. 20 of 1989, Act No. 8 of 1991, Act No. 9 of 1992, Act No. 4 of 1993, Act No. 5 of 1993, Act No. 12 of 1994, Act No. 13 of 1995, Act No. 8 of 1996, Act No. 7 of 1997, Act No. 8 of 1997, Act No. 5 of 1998, Act No. 4 of 1999, L.N. 76/1999, Act No. 9 of 2000, Act No. 6 of 2001, Act No. 7 of 2002, Act No. 9 of 2003, Act No. 4 of 2004, Act No. 6 of 2005, Act No. 11 of 2006, Act No. 7 of 2007, Act No. 9 of 2007, L.N. 97 of 2007, Act No. 8 of 2008, Act No. 8 of 2009, Act No. 10 of 2010, Act No. 4 of 2012, L.N. 58/2012.]

## PART I – PRELIMINARY

**1. Short title**

This Act may be cited as the Insurance Act.

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

“**actuary**” means—

- (a) a Fellow of the Institute of Actuaries in England or of the Faculty of Actuaries in Scotland or of the Society of Actuaries of the United States of America; or
- (b) such other person having actuarial knowledge as the Commissioner may, on the application of a member of the insurance industry, approve;

“**admitted asset**” means any property, security, item or interest of a person permitted or required by or under section 42 to be regarded as an admitted asset;

“**admitted liability**” means any obligation, whether actual, contingent or prospective, permitted or required by or under section 43 to be regarded as an admitted liability;

“**Advisory Board**” *deleted by Act No. 11 of 2006, s. 2(a)*;

“**affairs**”, in relation to a person or to a person associated with another person, includes—

- (a) the promotion, formation, membership, control, trading, dealings, business and property of the person;
- (b) the ownership of shares in, debentures of and interests made available by the person;

- (c) matters concerned with the ascertainment of the persons who are or have been financially interested in the success or failure, or apparent success or failure, of the person or are or have been able to control or to influence materially the policy of the person; and
- (d) the circumstances under which a person acquired or disposed of, or became entitled to acquire or dispose of, shares in, debentures of or interests made available by the person;

“**agent**” means a person, not being a salaried employee of an insurer who, in consideration of a commission, solicits or procures insurance business for an insurer or broker;

“**appointed date**” means the date specified in section 1 for the coming into force of this Act;

“**assessment report**” means any report in respect of a claim;

“**asset**” includes any property, security, item or interest of a person;

“**auditor**” means a person who is qualified to be appointed an auditor of a company under section 161 of the Companies Act;

“**Authority**” means the Insurance Regulatory Authority established by section 3;

“**bank**” has the meaning assigned to it in the Banking Act (Cap. 488);

“**Board**” means the Board of Directors of the Authority constituted under section 3B;

“**bond investment business**” means the business of issuing bonds or endowment certificates by which a company in return for subscriptions payable at periodic intervals contracts to pay the bond holder a sum or series of sums at a future date, not being life assurance business but including sinking fund or capital redemption insurance business;

“**broker**” means an intermediary concerned with the placing of insurance business with an insurer or reinsurer for or in expectation of payment by way of brokerage, commission, for or on behalf of an insurer, policy-holder or proposer for insurance or reinsurance and includes a health management organisation; but does not include a person who canvasses and secures reinsurance business from or to an insurer or broker in Kenya so long as that person does not undertake direct insurance business and does not have a place of business, or a resident representative, in Kenya;

“**certified**” means certified by a principal officer to be true and correct, a true copy or a correct translation (as the case may be) by endorsement on or attached to the document to be certified;

“**Chairman**” means the person for the time being presiding over the Board of Directors or other governing body of the member of the insurance industry;

“**child’s advancement policy**” means a policy effected, before a child has attained the age of eighteen years, by a person other than the child, which contains both of the following provisions:

- (a) provision for payment of a sum not exceeding the premiums paid and accumulated with interest to the executors, administrators or assigns of the child on his death before attaining the vesting age;

- (b) provision for payment of a sum to the child or his assigns on his attaining an age not less than the vesting age;

**“claims settling agent”** means a person who engages in the business of settling or negotiating insurance claims under policies issued by insurers whether in Kenya or outside Kenya;

**“Commissioner”** means the officer appointed under section 3E;

**“Company”** means the Kenya Reinsurance Corporation Limited;

**“contract of insurance”** includes a contract of reinsurance;

**“Corporation”** *repealed by Act No. 7 of 1997, s. 13*;

**“court”** means the High Court;

**“dependent”**, in relation to a company, means—

- (a) that another company, either alone or with any associate, is entitled to exercise or control the exercise of one-third or more of the voting power at any general meeting of the first-mentioned company; or
- (b) that the first-mentioned company is a dependent of a company which is that other company's dependent;

**“director”** means a person occupying the position of a director by whatever name he may be called;

**“document”** includes accounts, deeds, letters, writings, books and any other records of information, however compiled, recorded or stored and whether in written or printed form, on microfilm or in any other form;

**“financial institution”** has the meaning assigned to it in the Banking Act (Cap. 488) and includes a mortgage finance company within the meaning of that Act;

**“financial year”** means the calendar year;

**“general insurance business”** means insurance business of any class or classes not being long term insurance business;

**“gross direct premium”** means the premium after deductions of discounts, refunds and rebates of premium written by an insurer excluding any reinsurance premium accepted and before deduction of—

- (a) any premium payable in respect of mandatory cessions falling under section 145 of this Act;
- (b) any other reinsurance premium ceded;

**“gross liability”** means liability before deducting any part of it which is re-insured;

**“gross premium”** means the premium after deduction of discounts, refunds and rebates of premium but before deduction therefrom of any premium paid or payable by an insurer for reinsurance ceded, and includes premiums receivable by the insurer under reinsurance contracts accepted by the insurer;

**“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;

**“industrial life assurance business”** means the business of effecting assurances on human life, premiums in respect of which are payable, at intervals not exceeding two months in each case, to collectors sent by the insurer to each owner of a policy, or to his residence or place of work;

**“insurance business”** means the business of undertaking liability by way of insurance (including reinsurance) in respect of any loss of life and personal injury and any loss or damage, including liability to pay damage or compensation, contingent upon the happening of a specified event, and includes—

- (a) the effecting and carrying out by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidental to some other business carried out by the person effecting them) in return for the payment of one or more premiums;
- (b) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of capital redemption contracts;
- (c) the effecting and carrying out of contracts to pay annuities on human life,

and any business incidental to insurance business as so defined but does not include—

- (i) business in relation to the benefits provided by a friendly society or trade union for its members or their dependants;
- (ii) business in relation to the benefits provided for its members or their dependants by an association of employees;
- (iii) *deleted by Act No. 9 of 2003, s. 2;*
- (iv) business in relation to a scheme or arrangement for the provision of benefits consisting of—
  - (A) the supply of funeral, burial or cremation services, with or without the supply of goods connected with any such service; or
  - (B) *deleted by Act No. 9 of 2003, s. 2,*and no other benefits, except benefits incidental to the scheme or arrangement;
- (v) business consisting of the effecting and carrying out, by a person carrying on no other insurance business, of contracts of such description as may be prescribed, being contracts under which the benefits provided are exclusively or primarily benefits in kind;
- (vi) business declared by the Minister by notice in the *Gazette* not to be insurance business for the purposes of this Act;

**“insurance surveyors”** means a person who engages in surveying risks and in advising on the rate and terms and conditions of premiums including making suggestions for improvement of the risks; and, in the marine insurance business, includes a person who surveys or assesses the losses on behalf of the insured;

**“Insurance Training and Education Trust”** means the Insurance Training and Education Trust declared as such by instruments of the trustees dated 3rd May, 1988;

**“Insurance Training Levy”** means the insurance training levy payable under section 197H;

**“Insurance Premium Levy”** means the insurance premium levy payable under section 197A;

**“insurer”** means a person, registered under this Act, who carries on insurance business and includes a reinsurer;

**“intermediary”** means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurer, but does not include a person who merely publishes invitations on behalf of, or to the order of, some other person;

**“investigator”** means the Commissioner or an investigator appointed under section 9;

**“Kenya business”** and **“Kenya reinsurance business”** means insurance business carried on by an insurer in respect of any person, human life, property or interest situated in Kenya, or in respect of which premiums are ordinarily payable in Kenya and include insurance business in respect of any vessel, hovercraft or aircraft registered or ordinarily located in Kenya and includes marine cargo insurance policies on all imports entering Kenya, including marine cargo insurance policies for commercial imports, but excludes marine cargo insurance policies issued on personal effects, goods and items imported into Kenya by returning residents or passengers entering Kenya for permanent or temporary residence;

**“Kenya Government securities”** means securities charged on the revenue of the Government or guaranteed fully as regards principal and interest by the Government;

**“Kenya Reinsurance Corporation”** *repealed by Act No. 7 of 1997, s. 13;*

**“Kenya Reinsurance Corporation Limited”** has the meaning assigned to it in section 2 of the Kenya Reinsurance Corporation Act, 1997 (Cap. 487A);

**“life assurance”** and **“life assurance business”** mean the business of, or in relation to, the issuing of, or the undertaking of liability to pay money on death (not being death by accident or specified sickness only) or on the happening of any contingency dependent on the termination or continuance of human life (either with or without provision for a benefit under a continuous disability insurance contract), and include a contract which is subject to the payment of premiums for a term dependent on the termination or continuance of human life and any contract securing the grant of an annuity for a term dependent upon human life;

**“long term insurance business”** includes insurance business of all or any of the following classes, namely, ordinary life assurance business, industrial life assurance business and bond investment business and includes, in relation to any insurer, business carried on by the insurer as incidental to any such class of business;

**“loss adjuster”** and **“loss assessor”** mean persons who do the business of assessing, investigating, negotiating and settling losses on behalf of the insurer or the insured;

**“management expenses”** means expenses incurred in the administration of an insurer which are not commission payable and, in the case of general insurance business, are not included in claims paid, claims outstanding, expenses for settling claims and expenses for settling claims outstanding;

**“managing agent”** means a person, firm or company entitled to the management of the whole affairs of an insurer, by virtue of an agreement with the insurer, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes a person, firm or company occupying that position, by whatever name called;

**“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;

**“member of the insurance industry”** includes an insurer, reinsurer, broker, agent, insurance surveyor, risk manager, loss assessor, loss adjuster and claims settling agent, whether registered under this Act or not;

**“net liability”** means the liability assessed by an actuary at a valuation made by him and approved by the Commissioner;

**“net premium”** means the balance of the gross premium after deduction therefrom of any premium paid or payable by the insurer for reinsurance ceded;

**“ordinary life assurance business”** means life assurance business, being business of, or in relation to, the issuing of, or the undertaking of liability under, ordinary life policies;

**“ordinary life policy”** means a policy of life assurance other than a policy of industrial life assurance;

**“person”** includes a company, corporate body (whether incorporated by or under statute or statutory authority), association, association of underwriters, fund, natural person, partnership and scheme;

**“policy”**—

- (a) in relation to ordinary life assurance business or industrial life assurance business, includes an instrument evidencing a contract to pay an annuity upon human life;
- (b) in relation to bond investment business, includes a bond, certificate, receipt or other instrument evidencing the contract with insurer; and



- (c) in relation to other classes of business, includes an instrument under which there is for the time being an existing liability already accrued or under which any liability may accrue;

**“policy-holder”** means the person who for the time being is the legal holder of the policy for securing the contract with the insurer;

**“premium”** includes the consideration for the granting of an annuity;

**“principal officer”** means an officer appointed under section 68;

**“registration”** means registration under this Act and includes a renewal of registration;

**“regulations”** and **“rules”** mean regulations and rules made under this Act;

**“reinsurer”** means a person who carries on reinsurance business and includes a retrocessionaire;

**“reinsurance business”** means the business of undertaking liability to pay money to insurer or reinsurers in respect of contractual liabilities in respect of insurance business incurred by insurers or reinsurer and includes a retrocession;

**“related”**, in relation to an insurer, means—

- (a) a dependant of that insurer;
- (b) a company of which the insurer is a dependant; or
- (c) a dependant of a company of which the insurer is a dependant;

**“retrocession”** means the reinsurance of reinsurance business accepted by a reinsurer;

**“retrocessionaire”** means a person reinsuring a reinsurer;

**“risk manager”** means a person, his clients or employer with regard to a programme of minimizing losses arising through unforeseen events, and of minimizing the cost of such protection by physical or financial measures through insurance or any other means;

**“statutory fund”** means the fund established under section 45;

**“subsidiary”** has the meaning assigned to it in section 154 of the Companies Act;

**“tax”** *deleted by Act No. 11 of 2006, s. 2(b)*;

**“Tribunal”** means the tribunal established under section 169;

**“vesting age”** means—

- (a) the age of eighteen years; or
- (b) an age of not less than ten years on or after the attainment of which by the child it is specified in the policy that sums payable in respect of the policy by the insurer who issued it shall be paid to the child or his executors, administrators or assigns.

(2) An insurer shall be deemed to be carrying on business of a particular class so long as any liability in respect of that class of business remains unsatisfied and is not otherwise provided for, and shall be subject to all the provisions of this Act, save as is specifically provided in any other section thereof, in relation to that class of business.

[Act No. 9 of 1989, Second Sch., Act No. 18 of 1986, Sch., Act No. 12 of 1987, s. 2, Act No. 20 of 1989, Sch., Act No. 7 of 1997, s. 13, Act No. 4 of 1999, s. 72, Act No. 9 of 2003, s. 2, Act No. 11 of 2006, s. 2.]

## PART II – THE INSURANCE REGULATORY AUTHORITY

[Act No. 11 of 2006, s. 3.]

### 3. Establishment of the Authority

(1) There is established an Authority to be known as the Insurance Regulatory Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable or immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all other things or acts for the furtherance of its functions under the provisions of this Act, which may be lawfully done or performed by a body corporate.

[Act No. 11 of 2006, s. 4.]

### 3A. Objects and functions of the Authority

The objects and functions of the Authority shall be to—

- (a) ensure the effective administration, supervision, regulation and control of insurance and reinsurance business in Kenya;
- (b) formulate and enforce standards for the conduct of insurance and reinsurance business in Kenya;
- (c) license all persons involved in or connected with insurance business, including insurance and reinsurance companies, insurance and reinsurance intermediaries, loss adjusters and assessors, risk surveyors and valuers;
- (d) protect the interests of insurance policy-holders and insurance beneficiaries in any insurance contract;
- (e) promote the development of the insurance sector;
- (f) advise the Government on the national policy to be followed in order to ensure adequate insurance protection and security for national assets and national properties;
- (g) issue supervisory guidelines and prudential standards from time to time, for the better administration of the insurance business of persons licensed under this Act;
- (h) share information with other regulatory authorities and to carry out any other related activities in furtherance of its supervisory role;

- (i) undertake such other functions as may be conferred on it by this Act or by any other written law.

[Act No. 11 of 2006, s. 4, Act No. 10 of 2010, s. 51.]

### **3B. Board of Directors**

(1) The management of the Authority shall vest in the Board of Directors of the Authority which shall comprise—

- (a) a chairman to be appointed by the President on the recommendation of the Minister;
- (b) the Commissioner of Insurance appointed under section 3E;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to finance or his representative;
- (d) the Chief Executive Officer of the Retirement Benefits Authority;
- (e) the Chief Executive Officer of the Capital Markets Authority;
- (f) the Governor of the Central Bank of Kenya or his representative; and
- (g) a nominee of the Insurance Institute of Kenya;
- (h) four other members, not being public officers, appointed by the Minister.

(2) The chairman and every member appointed under paragraph 5(a), (g) or (h) of subsection (1) shall be appointed from amongst persons who have knowledge or experience in matters relating to insurance, finance, banking or actuarial science.

(3) A person shall not be eligible for appointment under paragraph 5(a), (g) or (h) of subsection (1) if such person—

- (a) has at any time been convicted of any offence involving fraud, theft, dishonesty, breach of trust or moral turpitude;
- (b) was previously involved in the management or administration of a financial institution which was deregistered, wound up or placed under statutory management for any failure on the part of the management or the administration thereof;
- (c) is a director, officer, employee or shareholder of any insurer, broker, insurance agent or any other member of the insurance industry; or
- (d) is disqualified under any other written law from holding public office or being a director of any institution.

[Act No. 11 of 2006, s. 4.]

### **3C. Powers of the Board**

(1) The Board shall have all the powers necessary for the performance of its functions under this Act and, without prejudice to the generality of the foregoing, shall have power to—

- (a) control, supervise and administer the assets of the Authority in such manner and for such purposes as best promote the purpose for which the Authority is established;

- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments on behalf of the Authority and make legitimate disbursements therefrom;
- (d) enter into association with such other bodies or organisations, within or outside Kenya, as it may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;
- (e) open a banking account or banking accounts for the funds of the Authority; and
- (f) invest the funds of the Authority not currently required for its purposes in the manner provided in this Act.

(2) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule, but subject thereto, the Board may regulate its own procedure.

(3) The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the exercise of any of the powers, or the performance of any of the functions or duties of the Authority under this Act, or under any other written law.

[Act No. 11 of 2006, s. 4.]

### **3D. Remuneration of Board members**

The Authority, in consultation with the Minister, shall pay the members of the Board such remuneration, fees or allowances for expenses as it may determine.

[Act No. 11 of 2006, s. 4.]

### **3E. Commissioner of Insurance**

(1) There shall be a Commissioner of Insurance who shall be the Chief Executive Officer of the Authority and who shall be appointed by the Board, in consultation with the Minister, on such terms and conditions of service as may be determined by the Board in the instrument of appointment, or otherwise in writing from time to time.

(2) The Commissioner shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board.

(3) The Commissioner shall, subject to the directions of the Board, be responsible for the day-to-day management of the affairs of the Authority.

(4) A person shall be qualified to be appointed under this section if such person—

- (a) has considerable knowledge, competence and at least ten years' experience in a managerial capacity in insurance, accounting, finance, actuarial science or banking; and
- (b) is not engaged in the insurance business as a director, employee, officer or shareholder of any insurer, broker, insurance agent, or in any other sector of the insurance industry, and if appointed shall be disqualified if he, his spouse or dependent child becomes such director, employee, officer or shareholder.

[Act No. 11 of 2006, s. 4.]

**3F. Appointment of Secretary and other staff**

(1) The Board shall appoint a Secretary to the Board on such terms and conditions of service as it may determine.

(2) The Board may appoint such officers or servants as are necessary for the proper discharge of the functions of the Authority under this Act or any other written law, upon such terms and conditions of service as it may determine.

[Act No. 11 of 2006, s. 4.]

**3G. Common seal of the Authority**

(1) The common seal of the Authority shall be kept in such custody as the Board may direct, and shall not be used except on the order of the Board.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and, unless and until the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

[Act No. 11 of 2006, s. 4.]

**4. The Insurance Regulatory Authority Fund**

(1) The Authority shall establish a general fund to be known as the Insurance Regulatory Authority Fund, hereafter referred to as "the Fund", which shall vest in the Authority.

(2) There shall be paid into the Fund—

- (a) all proceeds of the insurance premium levy imposed by section 197A;
- (b) such moneys as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) such sums as may be payable to the Authority pursuant to this Act or any other written law, or pursuant to any gift or trust;
- (d) such sums as may be granted to the Authority by the Minister pursuant to subsection (3); and
- (e) all moneys from any other source provided for, donated to or borrowed by the Authority.

(3) There shall be made to the Authority, out of moneys provided by Parliament for that purpose, grants towards the expenditure incurred by the Board in the exercise of its powers and the performance of its functions under this Act.

(4) The Authority may invest any of its funds in securities which trustees are by law allowed to invest trust funds, or in any other securities which the Treasury may, from time to time, approve.

(5) There shall be paid out of the Fund all such sums of money required to defray the expenditure incurred by the Authority in the exercise of powers and performance of its functions and duties.

[Act No. 11 of 2006, s. 5.]

**4A. Financial year and annual estimates**

(1) The financial year of the Authority shall be the period of twelve months ending on the thirtieth of June in each year.

(2) At least four months before the commencement of each financial year, the Board shall prepare estimates of revenue and expenditure of the Authority for that year.

(3) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the Authority;
- (c) the proper maintenance of the buildings and grounds of the Authority;
- (d) the maintenance, repair and replacement of the equipment and other property of the Authority;
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(4) The annual estimates shall be prepared at least three months before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval and after such approval, the Authority shall not increase the annual estimates without the consent of the Minister.

(5) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under this section or in pursuance of an authorisation by the Minister.

[Act No. 11 of 2006, s. 5.]

**4B. Accounts and audit**

(1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Authority.

(2) Within a period of four months after the end of each financial year, the Board shall submit to the Controller and Auditor-General or an auditor appointed by the Board under the Authority of the Controller and Auditor-General, the accounts of the Authority together with—

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the Authority of the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act, 2003 (Act No. 12 of 2003).

[Act No. 11 of 2006.]

**4C. Supersession**

Where there is a conflict between the provisions of this Act and the provisions of any written law with regard to the powers or functions of the Board or the Authority under this Act, the provisions of this Act shall prevail.

[Act No. 11 of 2006, s. 5.]

**5. Particular duties of Commissioner**

(1) Subject to this Act, the duties of the Commissioner shall include—

- (a) *deleted by Act No. 11 of 2006, s. 6(a)(i)*;
- (b) directing insurers and reinsurers on the standardisation of contracts of compulsory insurance;
- (c) directing an insurer or a reinsurer, where he is satisfied that the wording of a particular contract of insurance issued by the insurer or reinsurer is obscure or contains ambiguous terms or terms and conditions which are unfair or oppressive to the policy-holders, to clarify, simplify, amend or delete the wording, terms or conditions, as the case may be, in respect of future contracts;
- (d) the approval of tariffs and rates of insurance in respect of any class or classes of insurance;
- (e) such other duties as the Board may assign to him.

(1A) The Board may, with the approval of the Minister make regulations for the purpose of giving effect to the provisions of this Part.

(2) The Board shall, as soon as reasonably practicable after each year ending on 31st December, furnish to the Minister a report on the working of this Act during that year together with summaries of returns and documents deposited with him under Part VI during that year; and the Minister shall lay the report before the National Assembly as soon as reasonably practicable thereafter.

[Act No. 12 of 1994, s. 2, Act No. 11 of 2006, s. 6.]

**6. *Repealed by Act No. 11 of 2006, s. 7.***

**7. Power to call for information and production of books or papers**

(1) The Commissioner may, by notice in writing, require a member of the insurance industry to supply him with information relating to his insurance business, and that person shall comply with the requirement within such period after receipt of the notice as may be specified therein failing which he shall be deemed to have failed to comply with the provisions of this Act.

(2) Information supplied under this section shall be certified by a principal officer of the member of the insurance industry in question and, if the notice so requires, also by an auditor.

(3) The Commissioner may by notice in writing—

- (a) require a member of the insurance industry to produce, at such time and place as he may specify, such books or documents as he may specify; or

- (b) authorize any person, on producing (if required to do so) evidence of his authority, to require a member of the insurance industry to produce to him forthwith any books or documents which that person may specify.

(4) Where by virtue of subsection (3) the Commissioner or a person authorized by him has power to require the production of books or documents from a member of the insurance industry, the Commissioner or that person shall have the same power to require production of those books or documents from any person who appears to him to be in possession of them.

(5) Where any person from whom production of a document is required claims a lien on the document produced by him, the production shall be without prejudice to the lien.

(6) The power conferred by or by virtue of subsections (3) and (4) to require a member of the insurance industry or other person to produce books or documents shall include power—

- (a) if the books or documents are produced—
  - (i) to take copies of them or extracts of or from them; and
  - (ii) to require that person, or any other person who is a present or past director of, auditor of, or is or was at any time employed by, the member of the insurance industry in question, to provide an explanation of any of them;
- (b) if the books or documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(7) A person who in purported compliance with a requirement imposed under this section furnishes information which he knows to be false in a material particular, or who recklessly furnishes information which is false in a material particular, or who, having been required to produce a book or document for examination, alters, mutilates, damages, destroys, conceals or removes it without the written consent of the Commissioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding twelve months or to both.

## **8. Examination of reinsurance treaties**

(1) The Commissioner may—

- (a) call upon an insurer to submit for his examination at his office all reinsurance treaties and other reinsurance contracts entered into by the insurer;
- (b) by notice in writing, require an insurer to supply him with copies of any of the documents referred to in paragraph (a) certified by a principal officer of the insurer.

(2) If on the scrutiny of a document referred to in subsection (1) or otherwise the Commissioner considers that any reinsurance treaty, contract or arrangement



or any terms or conditions therein are not favourable to the insurer or are not in the interests of the economy or the insurance industry or in the public interest, he may in writing direct the insurer either—

- (a) to make, at the time when the renewal of that treaty or contract next becomes due, such modifications in its terms and conditions as he may specify; or
- (b) not to renew that treaty, contract or arrangement.

(3) A person who fails to comply with, or contravenes any requirement imposed under, this section shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding twelve months or to both, and if the offence is a continuing one, to a further fine not exceeding two hundred shillings for every day during which the offence continues.

## **9. Directions and investigations**

(1) Where the Commissioner—

- (a) has reason to believe that—
  - (i) an offence under this Act or default in complying with any of the provisions of this Act or any subsidiary legislation made thereunder has been or is likely to be committed by a member of the insurance industry; or
  - (ii) the affairs of any member of the insurance industry are being conducted in a manner which is detrimental or prejudicial to the interests of that member, any policy-holder, the economy or the insurance industry; or
  - (iii) an insurer may be unable or is likely to become unable to meet his obligations or, in the case of long term insurance business, to fulfil the reasonable expectation of policy-holders or potential policy-holders; or
- (b) receives a requisition signed by not less than ten per cent of policy-holders holding policies of life assurance in force respectively for not less than three years with an insurer and which on maturity will be for a total value of not less than one million shillings, that an investigation be held into the affairs of that insurer; or
- (c) receives a requisition signed by not less than one-tenth of the shareholders holding not less than one-tenth of the issued share capital of an insurer, that an investigation be held into his affairs,

the Commissioner may exercise any one or more of the powers set out in subsection (2).

(2) The powers referred to in subsection (1) are that the Commissioner may—

- (a) by notice in writing served on the person concerned, direct him to furnish to the Commissioner within such period after service of the notice, being not less than seven days, as he specifies in the notice, information in writing about such matters in relation to the affairs of the person as he so specifies;

- (b) by notice in writing served on the person concerned direct him not to dispose of or otherwise deal with or remove from Kenya an asset in Kenya specified in the notice during such period after service of the notice, being not more than six months, as he specifies in the notice;
- (c) after giving the member of the insurance industry a reasonable opportunity of being heard, and with the written approval of the Board, give such directions in writing as he considers necessary, to be effective from a specified date;
- (d) after giving the member of the insurance industry a reasonable opportunity of being heard, and with the written approval of the Board, prohibit that member of the insurance industry from entering into any particular transaction or class of transactions;
- (e) after giving the member of the insurance industry a reasonable opportunity of showing cause why, on such grounds as he so specifies, an investigation should not be conducted in respect of that member, with the approval in writing of the Board, investigate, or, by instrument in writing appoint any person, other than a person in the employ of that member, to investigate the affairs of that member.

(3) With regard to a requisition made under paragraph (b) or (c) of subsection (1) the Commissioner may, before ordering an investigation, require the persons making the requisition to furnish security in such amount as he considers sufficient to meet the costs to be incurred by the member of the insurance industry and by the Commissioner in respect of the investigation.

(4) A person who fails to comply with a direction issued or who contravenes a prohibition imposed under subsection (2) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings; and if the offence is a continuing one, to a further fine not exceeding one hundred shillings for every day during which the offence continues.

(5) The Commissioner or other person appointed by him to investigate the affairs of a member of the insurance industry may, wherever necessary, employ an auditor, actuary or other person to assist him in the investigation.

(6) All expenses of, and incidental to, an investigation under this section shall be defrayed by the member of the insurance industry and if they are not paid by him within a period of one month after the Commissioner makes a demand to him, shall constitute a civil debt recoverable summarily by the Commissioner.

[Act No. 11 of 2006, s. 8.]

#### **10. Particular powers of Commissioner with regard to long term insurance business**

(1) Where an insurer carrying on long term insurance business has not issued a new policy of that category of insurance for a period of twelve months from the appointed date, or from the date of issue of the last policy, whichever is later, the Commissioner may, with the approval of the Board, direct the insurer to frame proposals for transfer or amalgamation of its business to or with another insurer.

(2) Where an insurer fails to comply with a direction under subsection (1), or if the proposals framed by the insurer are in the opinion of the Commissioner

unsatisfactory, the Commissioner may himself frame a scheme for the transfer of the business to another insurer specified by the first-mentioned insurer and approved by the Commissioner.

(3) Where an insurer fails to implement a scheme framed by the Commissioner under subsection (2) and the Commissioner considers that the continuance in business of that insurer is likely to lead to insolvency, or is otherwise contrary to the interests of policy-holders he may with the prior approval of the Minister—

- (a) order an investigation of that insurer; or
- (b) apply to the court for winding up the business of the insurer in terms of section 123(1)(b).

(4) An insurer who, upon an investigation ordered under subsection (3)(a) is found to have disposed of any assets from a closed fund contrary to the provisions of section 21, or to have misappropriated such assets, commits an offence and is liable on conviction, to a fine not exceeding one hundred thousand shillings or, where the insurer is a natural person to imprisonment for a term not exceeding five years, or to both.

(5) An insurer convicted under subsection (4) shall forthwith be liable to refund the assets misappropriated from the closed fund.

(6) An insurer who fails to refund any assets under subsection (5) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings, or, if the insurer is a natural person, to imprisonment for a term not exceeding five years, or to both.

(7) If an offence under subsection 6 is a continuing one, the insurer shall be liable to a further fine of five thousand shillings for every day during which the offence continues.

(8) In this section the expression “**closed fund**” means a closed fund within the meaning of section 21.

[Act No. 12 of 1987, s. 3, Act No. 12 of 1994, s. 3, Act No. 8 of 1996, s. 48, Act No. 11 of 2006, s. 9.]

## **11. Investigations of associated persons**

(1) Where an investigator believes on reasonable grounds that it is necessary for the purposes of an investigation under section 9 to investigate the whole or some part of the affairs of another person that is, or has at some relevant time been, associated with the person in respect of which he is appointed, he may, with the consent in writing of the Board, investigate the whole or that part of the affairs of that other person.

(2) Before commencing the investigation, the investigator shall, if requested, serve on the associated person a copy of the consent in writing of the Board.

(3) For the purposes of this section, a person is associated with another person if the two persons are related to each other and—

- (a) the first-mentioned person is a member of the insurance industry; and

- (b) either of those persons is, or has directors who are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the other person or of its directors.

[Act No. 11 of 2006, s. 10.]

## **12. Powers of investigator**

(1) An investigator may, by notice in writing, require any person who is or has at any time been a director, managing director, secretary, principal officer, manager, officer, employee, agent, accountant, broker, auditor or actuary of the person being investigated to—

- (a) give to the investigator all reasonable assistance in connection with the investigation; or
- (b) appear before the investigator for examination concerning matters relevant to the investigation; or
- (c) produce any books or documents that relate to the affairs of the person being investigated.

(2) Where books or documents are produced to an investigator under this section, the investigator may take possession of them for such period as he thinks necessary for the purposes of the investigation and may make copies of and take extracts from them, but shall permit a person who would be entitled to inspect any of them, if they were not in the possession of the investigator, to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

(3) No person shall—

- (a) refuse or fail to comply with a requirement of an investigator that is applicable to him, to the extent to which he is able to comply with it; or
- (b) in purported compliance with such a requirement, furnish information or make a statement that he knows to be false or misleading in a material particular; or
- (c) when appearing before an investigator for examination in pursuance of such a requirement, make a statement that he knows to be false or misleading in a material particular; or
- (d) obstruct or hinder an investigator in the exercise of his powers under this Act.

(4) A person who acts in contravention of subsection (3) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

(5) A person being examined by an investigator shall not be excused from answering a question put to him by an investigator on the ground that the answer might tend to incriminate him but, where the person informs the investigator before answering the questions that the answer might tend to incriminate him, neither the question nor the answer shall be admissible in evidence against him in criminal proceedings other than proceedings in relation to an offence under subsection (4).

**13. Protection for persons complying**

A person who complies with a requirement of an investigator under this Act shall not incur liability to any other person by reason only of that compliance.

**14. Person may be represented by an advocate**

An advocate acting for a person being examined by an investigator—

- (a) may attend the examination; and
- (b) may—
  - (i) address the investigator; and
  - (ii) examine the person,

in relation to matters in respect of which the investigator has questioned the person.

**15. Notes of examination of person**

(1) An investigator may cause notes of an examination of a person to be recorded and read to or by that person and may require that person to sign the notes and, subject to section 12(5), notes signed by that person may be used in evidence in proceedings under this Act against that person.

(2) A copy of the notes signed by a person shall be furnished without charge to that person upon request made by him in writing to the investigator.

(3) Where notes are recorded under this section, the notes shall be furnished to the Commissioner with the report of the investigation to which they relate.

**16. Report of investigator**

(1) An investigator may make one or more reports in writing to the Commissioner during the investigation of the whole or a part of the affairs of a person and shall, if so directed in writing by the Commissioner, make such reports as are specified in the direction.

(2) A report made on the completion of the investigation shall include—

- (a) a statement of the opinion of the investigator in relation to the grounds for investigation and the facts on which that opinion is based and recommendations thereon;
- (b) the recommendations of the investigator with respect to—
  - (i) the question whether the person investigated should continue to be permitted to carry on business;
  - (ii) any directions that should be given under section 17 to the person investigated;
  - (iii) the question whether the affairs of the investigated person should be reorganized; and
  - (iv) such other matters, affecting the person investigated or otherwise in the public interest in relation to the business carried on by the person investigated, as he thinks fit.

(3) An investigator shall not include in a report a recommendation relating to the institution of criminal proceedings or a statement to the effect that, in his opinion, a specified person has committed a criminal offence.

(4) The Commissioner shall give a copy of a report made to him under this section to the person investigated.

(5) The Minister may, if he considers it is in the public interest to do so and after taking into consideration any advice he has received from the Attorney-General, cause the whole or some part of the report to be published.

#### **17. Directions to person investigated**

(1) The Commissioner may, by notice in writing, require a person investigated to comply by such date or within such period as may be specified therein, with such directions as he considers necessary in connection with any matter arising out of a report made under section 16.

(2) Without prejudice to the generality of subsection (1), the Commissioner may, where the person investigated is an insurer, with the approval of the Minister, issue any one or more of the following directions—

- (a) that the insurer shall not issue new policies or undertake liability under new contracts of insurance;
- (b) that the insurer shall not renew existing policies;
- (c) that the insurer shall not issue policies in respect of a class of insurance business specified in the direction or undertake liability under contracts of insurance included in a class of contracts of insurance so specified;
- (d) that the insurer shall not renew existing policies in respect of a class of insurance business specified in the direction.

(3) Without prejudice to the generality of subsection (1), the Commissioner may, where the person investigated is an insurer issue any one or more of the following directions—

- (a) that the insurer shall not dispose of or otherwise deal with an asset of the insurer or an asset of the insurer included in a class of assets specified in the direction;
- (b) that the insurer shall dispose of an asset of the insurer included in a class of assets specified in the direction, in such manner and within such period after the giving of the direction, not being less than twenty-one days, as the Commissioner so specifies;
- (c) that the insurer shall, within such period after the giving of the direction, not being less than twenty-one days, as the Commissioner specifies in the direction, make in his accounts such provision or further provision as the Commissioner so specifies in respect of unearned premiums or claims or in respect of both unearned premiums and claims;
- (d) that the insurer shall, within such period after the giving of the direction, not being less than twenty-one days, as the Commissioner specifies in the direction, adjust one or more of his reserves and make appropriate investment in connection with such reserve or reserves, as the case may be;
- (e) that the insurer shall make such arrangements with respect to reinsurance or retrocession as he so specifies;

- (f) that the insurer shall increase, so far as he is able to do so, his paid up capital whether by calling up such uncalled capital as is available to be called up or otherwise;
- (g) that the insurer shall not, except with the consent of the Commissioner—
  - (i) enter into an arrangement or agreement for the sale or disposal of his business by amalgamation or otherwise or for the carrying on of his business in partnership with another body corporate; or
  - (ii) effect a reconstruction of the insurer.
- (h) that the insurer shall, within such period after the giving of the directions, not being less than six months, as the Commissioner specifies in the direction, effect a reconstruction of the insurer.

(4) Where a body corporate in respect of whom a direction has been given under subsection (1), (2) or (3) is commenced to be wound up, the direction shall cease to have effect unless the court directs otherwise.

(5) If, as a result of a report by an investigator, the Commissioner considers that it is necessary in the interests of policy-holders that the person investigated be wound up, or if the person investigated fails to comply with any direction issued under this section, the Commissioner may, after giving the person investigated a reasonable opportunity of making representations, apply to the court for an order for the winding up of the person investigated, in which case the provisions of the Companies Act (Cap. 486) relating to the winding up of a company (as varied by Part XII of this Act ) shall apply.

(6) Where, after reading a report made under section 16, the Commissioner considers that a requisition under paragraphs (b) or (c) of subsection (1) of section 9 has been made without reasonable cause, he may order that the whole or any part of the amount furnished as security under subsection (3) of that section shall be forfeited and paid to the person investigated and the Commissioner in order to defray the respective costs incurred by them.

## **18. Secrecy**

(1) This section applies to every person who is or has been the Commissioner of Insurance or a member of the staff assisting the Commissioner or an investigator or any other person appointed by or assisting the Commissioner.

(2) Subject to this section, a person to whom this section applies shall not, either directly or indirectly, except in the performance of a duty under or in connection with this Act, make a record of or divulge or communicate to any person, any information concerning the affairs of any other person acquired by him by reason of his office or employment under or for purposes of this Act.

(3) Nothing in this section shall prevent the communication of information or the production of a document, by the Commissioner or by a member of the staff or other person assisting the Commissioner or by an investigator authorized by the Commissioner in that behalf, to a person to whom, in the opinion of the Minister, it is in the public interest that the information be communicated or the document produced.

(4) The Commissioner or a member of the staff or other person assisting the Commissioner and authorized by him in that behalf may furnish to the Director of Statistics or the Advisory Board information obtained from a member of the insurance industry or policy-holder:

Provided that any information furnished to the Director of Statistics or to the Advisory Board under this subsection shall be treated as confidential and used solely for the purposes of this Act.

(5) A person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding twelve months or to both.

[Act No. 12 of 1994, s. 4.]

### PART III – REGISTRATION OF INSURERS

#### **19. Only authorized persons to carry on insurance business**

(1) Except as otherwise provided in or under this Act, only a person registered under this Act shall, on or after the appointed date, carry on insurance business—

- (a) in Kenya, whether in respect of Kenya insurance or reinsurance business or otherwise; or
- (b) outside Kenya in respect of Kenya business, except Kenya business which is solely reinsurance business:

Provided that, notwithstanding this subsection, an insurer carrying on insurance business immediately before the appointed date may continue to carry on insurance business without being registered under this Act—

- (i) for a period of three months beginning with that date; and
- (ii) if before the expiration of that period he applies for registration under this Act, until he is registered or registration is refused or his application is withdrawn.

(2) A person resident in Kenya or an association of persons or body corporate established in Kenya who or which carries on insurance business in any part of the world other than Kenya shall for the purposes of this Act be deemed to be an insurer carrying on that business within Kenya.

(3) A person who carries on insurance business in contravention of subsection (1) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings and, if the offence is a continuing one, to a further fine of one thousand shillings for every day during which the offence continues.

(4) Where a person guilty of an offence under subsection (3) is a natural person, that person shall be liable, in addition to, or in the alternative to, a fine, to imprisonment for a term not exceeding two years.

(5) Where a person guilty of an offence under subsection (3) is a body corporate, then notwithstanding the imposition of any penalty, the commission of that offence shall constitute grounds whereby the Commissioner may apply to the Court for the winding up of that body corporate.



**20. Placing of risks with insurers and reinsurers not registered under this Act**

(1) No insurer, broker, agent or other person shall directly or indirectly place any Kenya business other than reinsurance business with an insurer not registered under this Act without the prior approval, whether individually or generally, in writing of the Commissioner.

(2) No insurer, broker, agent or other person shall directly or indirectly place any reinsurance of Kenya business with an insurer not registered under this Act except under the following conditions—

- (a) in the case of treaty reinsurance, with the approval of the Commissioner to the treaty, and subject to such restrictions as he may specify;
- (b) in the case of facultative reinsurance subject to the prior approval in writing of the Commissioner to the placing of each particular risk with insurers or reinsurers not registered under this Act.

(3) Paragraph (a) of subsection (2) shall be deemed to have been complied with in respect of any reinsurance treaty or contract in force on the appointed date until the date of the next renewal of registration or the date of the renewal of the treaty or contract, whichever is earlier, if the treaty or contract is certified by the Kenya Reinsurance Corporation Limited as having been approved by that company.

(4) A person who contravenes the provisions of subsection (1) or (2) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment not exceeding one year or to both.

(5) A policy or contract of insurance or reinsurance effected or renewed in contravention of subsection (1) of section 19, or subsection (1) of this section, shall not be invalid, void or unenforceable solely on the grounds of that contravention.

[Act No. 7 of 1997, s. 14.]

**21. Closed fund business**

(1) Nothing in section 19 shall prohibit, without registration under this Part, the continuance, subject to sections 10 and 123(1)(b), of insurance business in Kenya by an insurer, in so far as it is necessary to maintain, without renewal, any policy or contract of insurance, issued before the appointed date (in this section called "closed fund business"); but so long as any liability upon such a policy or contract of insurance remains unpaid or undischarged, all the provisions of this Act shall apply to that insurer, unless the Minister, in writing, specifically grants exemption therefrom or from any provision thereof.

(2) Where an insurer was on the appointed date carrying on only closed fund business and does not intend to apply for registration under this Part, he shall, within three months after the appointed date, notify the Commissioner in writing that he does not so intend.

(3) The Commissioner may, by notice in writing served on the insurer, require him to furnish within such period, not being less than three months, as he specifies, the particulars of the insurer's business in Kenya requested in the notice.

(4) A person who fails to comply with the provisions of subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings and, if the offence is a continuing one, to a further fine of five hundred shillings for every day during which the offence continues.

(5) No person shall dispose of any assets from a closed fund except with the prior approval of the Commissioner.

(6) A person who contravenes the provisions of subsection (5) commits an offence.

[Act No. 8 of 1996, s. 49.]

## 22. Prohibition of registration of certain persons

Subject to section 23, no person shall be registered as an insurer under this Act unless that person is a body corporate incorporated under the Companies Act (Cap. 486) and at least one-third of the controlling interest, whether in terms of shares, paid up share capital or voting rights, as the case may be, are held by citizens of Kenya or by partnership whose partners are all citizens of Kenya or by a corporate body whose shares are wholly owned by citizens of Kenya or is wholly owned by the Government.

[Act No. 18 of 1986, Sch, Act No. 11 of 2006, s. 11.]

## 23. Minimum capital requirements and holding by Kenya citizens

(1) No person shall be registered as an insurer or if registered shall have his registration renewed unless he meets the minimum capital requirements specified in the Schedule.

(2) The Minister may, by order published in the *Gazette*, amend the Schedule.

(3) Every order made under this section or under section 28 shall be laid before the National Assembly without unreasonable delay and unless a resolution approving the order is passed by the Assembly within twenty days on which it next sits after the order is so laid, it shall thenceforth be void without prejudice to anything previously done thereunder or to the issuing of a new order.

(4) Out of the amount of the paid up capital under subsection (1), not less than one third shall be owned by Kenya citizens or by a partnership whose partners are all citizens of Kenya or wholly owned by citizens of Kenya or is wholly owned by the Government.

(4A) No person shall—

- (a) control, or be beneficially entitled, directly or indirectly, to more than twenty-five per cent of the paid up share capital or voting rights of an insurer; or
- (b) be entitled to appoint more than twenty-five per cent of the board of directors of an insurer; or
- (c) be entitled to receive more than twenty-five per cent of the aggregate dividends of an insurer in any given financial year:

Provided that this subsection shall not apply to—

- (i) a corporate entity licensed by an insurance, banking, pensions or securities regulator in Kenya; or

- (ii) a foreign corporate entity licensed by an insurance, banking, pensions or securities regulator in its country of origin; or
- (iii) the Government of Kenya;
- (iv) a state corporation within the meaning of the State Corporations Act (Cap. 446);
- (v) a company listed in a stock exchange.

(4B) No person shall be appointed as an executive director, managing director, principal officer or other senior management official of an insurer if such person

- (i) controls, or is beneficially entitled, directly or indirectly, to more than twenty per cent of the paid up share capital or voting rights of the insurer; or
- (ii) is entitled to appoint more than twenty per cent of the Board of Directors of the insurer; or
- (iii) is entitled to receive more than twenty per cent of the aggregate dividends of the insurer in any given financial year.

(4C) A person who, at the commencement of subsections (4A) and (4B), holds any right, interest or office in an insurer contrary to the provisions of those subsections, shall comply with the requirements thereof by the 31st December, 2011.

(4D) For the purposes of subsection (4A), indirect control or beneficial entitlement to the paid up share capital or voting rights of an insurer, means control or entitlement—

- (a) in the case of a company or body corporate, through—
  - (i) a holding company or its subsidiary;
  - (ii) a subsidiary or its holding company;
  - (iii) a holding company or its subsidiary;
  - (iv) nominees; or
- (b) in the case of an individual, through—
  - (i) any member of his family;
  - (ii) a company or other body corporate controlled directly or indirectly by him, whether alone or with his associates;
  - (iii) any associate of his associates,

and a person shall be deemed to be a member of a family if he is the parent, spouse, brother, sister, child, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild or adopted child of the person concerned, and in the case of an adopted child his adoptive parents.

(5) A registered insurer who permits his paid up share capital to fall below the minimum prescribed under subsection (1) commits an offence and is liable on conviction to a penalty of one hundred thousand shillings and if the offence is a continuing one, to a further fine of five thousand shillings for every day during which the offence continues.

(6) Notwithstanding any other penalty imposed under this section, the convicted insurer shall be liable to having its registration cancelled.

[Act No. 18 of 1986, Sch., Act No. 12 of 1994, s. 5, Act No. 8 of 2009, s. 46,  
Act No. 10 of 2010, s. 52.]

**24. Extension of time**

(1) A person carrying on insurance business on the appointed date who does not meet the requirements of sections 22 and 23 (regarding controlling interests and paid up capital) may be registered, or his registration may be renewed, as the case may be, without complying with the requirements of those sections subject to the following conditions—

- (a) he shall comply with the requirements of sections 22 and 23 before the expiry of three years from the appointed date:

Provided that the Minister may, if satisfied that in spite of his best efforts he has not been able to comply with the necessary requirements, grant extension of the period by a period or periods not exceeding one year at a time, but the total length of those extended periods shall not exceed two years;

- (b) he shall not, in respect of the period up to the period stated above including all the extended periods, where he has paid up share capital, declare a dividend exceeding ten per cent per annum on the paid up value of the shares.

(2) On the expiry of the period mentioned in subsection (1), including the total of any extended periods, if the person has failed to comply with the requirements of sections 22 and 23 which may be applicable to him, his registration shall stand cancelled with immediate effect and the provisions of subsections (3), (4) and (5) of section 196 shall apply as if the registration has been cancelled under paragraph (a) of subsection (2) of that section and the cancellation has taken effect as on the expiry of that period, including the total of any extended periods.

[Act No. 18 of 1986, Schedule.]

**25. Requirements as to capital structure and voting rights**

(1) No insurer being a company limited by shares shall be registered to carry on insurance business unless he satisfies all the following conditions—

- (a) that the capital of the company consists only of ordinary shares each of which has a single face value;
- (b) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid up amount is the same for all shares, whether existing or new:

Provided that the conditions specified in this subsection shall not apply to an insurer who has, before the commencement of this Act, issued shares other than ordinary shares each of which has a single face value, or shares the paid up amount whereof is not the same for all of them, for a period of three years from that commencement.

(2) Notwithstanding anything to the contrary contained in any law for the time being in force or in the memorandum or articles of association of an insurer referred to in subsection (1), but subject to the other provisions of this section, the voting rights of every shareholder of the insurer shall in all cases be strictly proportionate to the paid up amount of the shares held by him.

(3) No insurer shall after the commencement of this Act be newly registered for carrying on any class of insurance business if he has issued shares other than ordinary shares of the nature specified in subsection (1).

(4) Subject to the other provisions contained in this Act, but notwithstanding anything contained in the Companies Act (Cap. 486), or in the memorandum or articles of association of an insurer referred to in subsection (1), no insurer shall, except with the prior written approval of the Commissioner, register the transfer of any shares where the transfer has the effect of reducing the proportion of share holding of citizens of Kenya in the insurer required by section 22 or 23.

## **26. Provisions relating to carrying on of both long term and general insurance business**

(1) A person registered as an insurer under this Act shall be entitled to carry on only the class or classes of insurance business for which he has been registered.

(2) In the case of an insurer registered to carry on both long term insurance business and general insurance business, the assets of the statutory funds established under section 45 in respect of long term insurance business shall be as absolutely the security of the policy-holders of the long term insurance business as though the statutory funds belonged to an insurer carrying on no other business than long term insurance business and shall not be liable for any contracts of the insurer for which the statutory funds would not have been liable had the business of the insurer been only long term insurance business and, notwithstanding the Companies Act, shall not be applied directly or indirectly, either during the winding up or otherwise, for any purpose other than those of the long term insurance business of the insurer.

## **27. One-third of boards to be citizens of Kenya**

A person being a body corporate incorporated in Kenya with or without a share capital shall not be registered or shall not have his registration renewed, as the case may be, and if registered shall have his registration cancelled, if at least one third of the members of his board of directors or managing board are not citizens of Kenya.

[Act No. 12 of 1994, s. 6.]

## **27A. Qualifications of board members**

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;
- (c) all the members of such Board have in writing addressed to the Commissioner signifying their acceptance to Serve on the Board.

[Act No. 9 of 2003, s. 3, Act No. 9 of 2007, s. 55.]

## **28. Minimum assets in Kenya**

(1) No person shall be registered under section 31, or if registered shall have the registration renewed except a person having in Kenya the minimum admitted assets of prescribed in the Schedule.

(2) The Minister may, by order published in the *Gazette*, amend the Schedule.

[Act No. 12 of 1994, s. 7.]

## **29. Appropriate reinsurance arrangements**

(1) Subject to subsection (3) of this section, no person shall be registered under section 31 except a person who has arrangements, being arrangements approved by the Commissioner for reinsurance of liabilities in respect of which persons, property or interests are, or are to be, insured by the insurer in the course of carrying on insurance business.

(2) The Commissioner shall not approve arrangements for reinsurance made or proposed to be made unless the amount of premium and commission to be paid or the manner in which the amount of premium and commission are to be ascertained are specified in the contract of reinsurance.

(3) The Commissioner shall not approve arrangements for reinsurance where, in the opinion of the Commissioner, the retention limits are too low or too high.

(4) The Commissioner may, in determining whether to approve arrangements for reinsurance made, or proposed to be made, by an insurer, have regard to all matters that he considers relevant and in particular to—

- (a) the class or classes of insurance business carried on or proposed to be carried on by the insurer;
- (b) the amount of premiums received by or due to the insurer during his last preceding financial year in respect of each class of insurance business carried on by him;
- (c) the amount of premiums expected by the insurer during the next financial year in respect of each class of insurance business to be carried on by the insurer;
- (d) the size of contingency loading which can be built into the premium rates of the insurer;
- (e) the amount of reinsurance commissions received by or due to the insurer during his last preceding financial year in respect of each class of insurance business carried on by the insurer;
- (f) the amount of reinsurance commissions expected to be received by the insurer during the next financial year in respect of each class of insurance business to be carried on by the insurer;
- (g) the price of reinsurance;
- (h) the nature and value of the assets of the insurer;
- (i) the capital reserves of the insurer and cost of servicing capital, investment policy and investment income;
- (j) probability, number and size of losses expected and risk characteristics of the insurer's portfolio;
- (k) inter-dependence of exposure units; and
- (l) the person or persons by whom the reinsurance is or is proposed to be undertaken.

(5) The Minister, having regard to such matters as he considers relevant, may, by notice in writing, exempt an insurer, subject to such terms and conditions and for such period as he specifies in the notice, from the requirements of subsection (1).

### **30. Application for registration**

An application for registration as an insurer shall be in the prescribed form and shall be accompanied by—

- (a) a copy of the memorandum of association or other instrument or document by which the applicant is constituted;
- (b) a copy of the articles of association or other rules of the applicant;
- (c) a certified copy of the published prospectus, if any;
- (d) a copy of each of the proposal and policy forms, endorsements and any form of written matter describing the terms or conditions of or the benefits to or likely to be derived from policies or intended to be used by the applicant;
- (e) statements of the premium rates, advantages and terms and conditions to be offered in connection with insurance policies and details of the bases and formulae from which those rates have been calculated together with a certificate in connection with long term insurance business by an actuary that such rates, advantages, terms and conditions are sound and workable;
- (f) a detailed statement of assets and liabilities in Kenya at the date of application;
- (g) a description of all reserves made by the insurer with detailed descriptions of the method, basis and formula for calculating each of the reserves;
- (h) a certificate from the Central Bank of Kenya specifying the amounts and details of deposits under section 32 made by the applicant;
- (i) certified copies of reinsurance contracts;
- (j) the prescribed fee;
- (k) such proposals as to the manner in which it proposes to carry on business and such financial forecasts and other documents and information, if any, as may be prescribed.

### **30A. Opening of a branch**

(1) An insurer registered under this Act wishing to open a branch or a new place of business in Kenya, or to change the location of a branch, or an existing place of business, shall apply to the Authority for approval to do so.

(2) In considering an application under subsection (1), the Authority shall take into account—

- (a) the history and financial condition of the insurer;
- (b) the adequacy of the capital base and the structure of the insurer;
- (c) the viability and earning prospects of the branch; and

- (d) such other matter as may have a bearing on the insurer or the proposed branch.

(3) There shall be payable, in respect of every application under subsection (1), a fee of twenty thousand shillings.

(4) For the purposes of this section “branch” means any permanent premises, other than its head office, at which an insurer transacts business in Kenya.

[Act No. 4 of 2012, s. 33.]

### **31. Registration**

Where the Board is satisfied that—

- (a) the applicant has the share capital and assets, as the case may be, required by sections 22 and 23;
- (b) the deposit required by section 32 has been made;
- (c) the applicant has adequate reinsurance arrangements or has been granted an exemption under section 29;
- (d) the applicant has adequate reserves and the methods of calculating the reserves are satisfactory;
- (e) the applicant has adequate assets in Kenya;
- (f) the volume of business which is likely to be available to, and the earning prospects of, the applicant are adequate;
- (g) the applicant is, and is likely to continue to be, able to comply with such of the provisions of this Act and regulations and directions made or issued under this Act as are applicable to the applicant;
- (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,

the Board shall, subject to such terms and conditions as it may consider necessary, approve the registration of the applicant in respect of such class or classes of insurance as it may direct, and shall notify the Minister accordingly.

[Act No. 12 of 1987, s. 4, Act No. 9 of 2003, s. 4, Act No. 11 of 2006, s. 12.]



## PART IV – DEPOSITS

**32. Deposits**

(1) Subject to subsection (2), an insurer applying for registration under this Act shall deposit and keep deposited with the Central Bank of Kenya (in this Part called “the Bank”) in Kenya Government securities estimated at the market value of the securities on the day of deposit—

- (a) where the application is in respect of long term insurance business, a sum of five million shillings or five percentum of the admitted assets, whichever is higher;
- (b) where the application is in respect of general insurance business, a sum of five million shillings or five percentum of the admitted assets, whichever is higher;
- (c) *deleted by Act No. 7 of 2002, s. 54.*

(2) Where an applicant under subsection (1) was carrying on insurance business immediately prior to the appointed date he may deposit with the Bank in Kenya Government securities a sum of one hundred and fifty thousand shillings in respect of long term business and a sum of fifty thousand shillings in respect of general business; and if the applicant is registered he shall deposit annually thereafter further Kenya Government securities of the same amounts in respect of each of the two classes of business aforesaid, until the deposit reaches the value specified in subsection (1) for the class or classes of business for which the applicant is registered.

(3) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sum in securities (estimated at the market value of the securities on the day of deposit) as will make up the amount so used and, unless the deficiency is supplied within a period of two months from the date when the deposit or any part thereof is used for discharge of liabilities, the insurer shall be deemed to have failed to comply with the requirements of subsection (1).

[Act No. 8 of 1996, s. 50, Act No. 6 of 2001, s. 60, Act No. 7 of 2002, s. 54.]

**33. Return of deposits if unregistered**

(1) A deposit made under section 32 shall be returned by the Bank if the application for registration as an insurer is not approved by the Board.

(2) Subject to section 40(2), no deposit made in respect of a class of insurance business shall be refunded so long as the insurer carries on that business.

[Act No. 12 of 1987, s. 11, Act No. 11 of 2006, s. 13.]

**34. Deposits to be kept by Bank on behalf of insurer**

Where the Minister approves an application for registration under section 31, a deposit made under section 32 shall be held by the Bank on behalf of the insurer and any interest due and collected by the Bank on a deposit shall be paid to the insurer.

[Act No. 12 of 1987, s. 11.]

**35. Substitution of deposits**

An insurer may at any time replace any securities deposited by him under this Part by other securities so long as the value of the other securities estimated at

the market rates prevailing at the time of replacement is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

### **36. Investment of amount deposited**

The Bank shall, on the written application of an insurer, invest in Kenya Government securities the whole or any part of the amount received on the redemption of a deposited security.

### **37. Variation of deposits**

(1) An insurer may require the Bank to sell any deposited security and to invest the net proceeds of the sale in such Kenya Government security as the insurer may direct and the new security shall be deemed to form part of the deposit under section 32.

(2) If the amount realized by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurer shall make good the deficiency by a further deposit in securities estimated at the market value of the securities on the day on which they were deposited, within a period of two months from the date on which the securities matured or were sold, and unless he does so the insurer shall be deemed to have failed to comply with the requirements of section 32 as to deposits.

### **38. Use of deposits**

(1) A deposit made by an insurer shall be deemed to be part of the assets of the insurer, but shall not—

- (a) be capable of being transferred, assigned, or encumbered with a mortgage or other charge, by the insurer;
- (b) be available for the discharge of a liability of the insurer other than liability in respect of a policy of insurance issued in Kenya by the insurer;
- (c) be liable to attachment in execution of a judgment except a judgment obtained by a policy-holder of the insurer in respect of a debt due upon a policy of insurance issued in Kenya and which debt the policy-holder has been unable to recover in any other way.

(2) Where a deposit is made in respect of long term insurance business, it shall not be available for the discharge of a liability of the insurer other than a liability arising out of a policy of long term insurance issued by the insurer.

### **39. Return of deposits**

Where the Minister is satisfied that an insurer has ceased to carry on in Kenya any class of insurance business in respect of which he has been registered and that all his liabilities in Kenya in respect of that business have been satisfied or otherwise provided for, the bank shall on the application by that insurer and on the approval of the Minister return to the insurer such part of the deposit as is not required in respect of any other class of insurance business carried on by the insurer.

[Act No. 12 of 1987, s. 11.]

**40. Increase of deposit**

(1) Where upon examination of a return, reinsurance document or other document of or furnished by an insurer, it appears to the Commissioner that a deposit made under section 32, or the value of the assets of the insurer in Kenya, is disproportionately low in relation to the amount of insurance business carried on by that insurer in Kenya, or that it is in the opinion of the Commissioner desirable for the protection of policy-holders, the Commissioner may, after giving the insurer a reasonable opportunity of making representations, require the insurer to make an additional deposit of such sum as he shall specify not exceeding in the case of general insurance business twenty per cent, and in the case of long term insurance business ten per cent, of the premiums paid or payable in respect of policies of insurance issued in the financial year of the insurer immediately preceding the year in which the additional deposit is required to be made:

Provided that the total deposits including the additional deposit shall not exceed three million shillings in the case of general insurance business and three million shillings in the case of long term insurance business.

(2) An additional deposit made in accordance with subsection (1), or any part thereof, which is in the opinion of the Commissioner no longer required shall be refunded to the insurer either on the application of the insurer or on the initiative of the Commissioner.

(3) Subject to subsection (2), an additional deposit required to be made under subsection (1) shall be deemed to be a deposit made under section 32 and the provisions of this Part applicable to deposits shall apply to that additional deposit.

**PART V – ASSETS, LIABILITIES, SOLVENCY MARGINS AND INVESTMENTS****41. Margin of solvency**

(1) An insurer carrying on in Kenya long term insurance business but not general insurance business shall keep at all times total admitted assets of not less than his total admitted liabilities and ten million shillings or five percentum of the total admitted liabilities, whichever is the higher.

(2) An insurer carrying on in Kenya general insurance business but not long term insurance business shall keep at all times admitted assets of not less than the aggregate value of his admitted liabilities and ten million shillings, or fifteen per cent of his net premium income during his last preceding financial year, whichever is the greater.

(3) An insurer carrying on both long term and general insurance business shall at all times maintain separate margins of solvency in accordance with subsection (1) and (2):

Provided that assets other than those representing the fund or funds maintained by the insurer in respect of his long term insurance business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the insurer's general insurance business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the insurer's long term insurance business.

(4) For the purposes of this section, in the case of long term insurance business the amount of liabilities in respect of the policies of the business at any time shall be the amount of the liabilities at that time as determined by an actuary, which shall not be less than that calculated on the minimum bases prescribed.

(5) An insurer failing to comply with the requirements of subsection (1), (2) or (3), as the case may be, shall be deemed to be unable to pay his debts within the meaning of section 219 of the Companies Act (Cap. 486).

(6) The Minister, having regard to such matters as he considers relevant, including the date of incorporation of an insurer, may by notice in writing allow time for an insurer, subject to such terms and conditions as may be specified in the notice, to comply with the requirements of subsection (1), (2) or (3).

(7) Nothing in this section shall be taken as affecting the manner in which, on a winding up, any assets or liabilities are required to be dealt with whether by virtue of section 46 or otherwise.

(8) Where the assets of an insurer include an investment in the form of cash with, loan to, debenture of, share in, or other form of investment in, an organisation and where in respect of long term insurance business or general insurance business the total value of all such investments in that organisation together with the value of such investments in all other organisations related to it exceeds five per cent of the total value of all the admitted assets of the insurer in the particular class of insurance referred to, any excess of the total value of all the investments over five per cent shall, for the purpose of ascertaining the value of the admitted assets of the insurer relating to the particular class of insurance business for the purpose of ascertaining compliance with the requirements of subsection (1), (2) or (3), as the case may be, be ignored:

Provided that—

- (a) this subsection shall not apply to—
  - (i) buildings and other real property owned by the insurer jointly with any organisation;
  - (ii) investments referred to in section 50(3);
  - (iii) cash held by banks on behalf of the insurer in current or savings accounts, or, subject to section 50(4)(g), fixed deposits; and
- (b) investments of long term insurance business or a general insurance business in a company or a group of companies which is a bank or a financial institution, or a group of banks or financial institutions shall, pursuant to section 50(10), not exceed ten per cent.

(9) For the purposes of this section—

- (a) the amount of liabilities shall be determined in accordance with regulations; and
- (b) subject to subsection (8), the assets that may be taken into account and their value shall be determined in accordance with regulations, which may prescribe the extent, if any, to which any particular asset may be taken into account, the depreciation that should be provided for each category of assets and any other relevant factor.

(10) The paid up capital of an insurer shall at all times, be not less than ten per cent of the total gross premium written by an insurer in respect of general insurance business during the financial year in question:

Provided that if at any time the insurer does not meet the minimum ratio of paid up capital to the total gross premium, the insurer shall, within six months after the end of the financial year to which it relates, increase the paid up capital to restore the prescribed minimum ratio.

(11) An insurer who fails to increase the paid up capital as required under subsection (10) shall be liable to a penalty of one hundred thousand shillings and to a further penalty of five thousand shillings for every day after the expiry of the period prescribed during which such failure continues, which penalty shall be paid by a crossed banker's draft or cheque drawn in favour of the Permanent Secretary to the Treasury.

(12) For the purposes of determining the solvency of an insurer, every registered insurer shall, for the period ending on the 31st December in each year, make a return in the prescribed form, showing his total assets, total admitted assets, total liabilities and such other details as may be prescribed, which shall be signed by the principal officer of the insurer and an auditor and submitted to the Commissioner on or before the 30th June of the following year.

[Act No. 12 of 1994, s. 8, Act No. 8 of 1996, s. 51, Act No. 7 of 2002, s. 55, Act No. 9 of 2007, s. 56, Act No. 8 of 2009, s. 47.]

#### 42. Admitted assets

(1) For the purposes of this Act, a reference to admitted assets includes a reference to any property, security, item or interest of a person approved by the Commissioner but does not include a reference to—

- (a) an unsecured or, in the opinion of the Commissioner, inadequately secured loan;
- (b) an asset that is mortgaged or charged for the benefit of a person other than the insurer to the extent that it is so mortgaged or charged;
- (c) a loan to, debenture of, or share in any insurer who is related to such a person;
- (d) *deleted by Act No. 10 of 2010, s. 53;*
- (e) a guarantee given to the insurer other than a bank guarantee issued by a bank licensed under the Banking Act or a guarantee given by a reinsurer in the course of re-insurance transactions;
- (f) an intangible asset;
- (g) unsecured loans to intermediaries;
- (h) prepaid preliminary and organisational expenses;
- (i) *deleted by Act No. 4 of 2004, s. 76;*
- (j) such other assets as may be prescribed.

(2) Where an insurer requests the Commissioner to approve as an admitted asset the whole or part of an asset excluded in subsection (1), the Commissioner may by notice in writing given to the insurer approve the asset, or such part thereof as he determines, accordingly.

[Act No. 12 of 1994, s. 9, Act 4 of 2004, s. 76, Act No. 10 of 2010, s. 53.]

**43. Admitted liabilities**

(1) For the purposes of this Act, a reference to admitted liabilities of an insurer means liabilities shown as current, contingent and prospective liabilities in the accounts of an insurer and includes, in the case of long term insurance business, the liabilities in respect of the policies of long term insurance business.

(2) For the purposes of this Act, a reference to admitted liabilities does not include a reference to—

- (a) a liability in respect of share capital or a reserve in lieu of capital approved by the Commissioner;
- (b) a liability in respect of such matters as the Commissioner may by notice in writing direct;
- (c) a liability prescribed.

(3) An insurer shall make adequate provision in his accounts for liabilities in respect of unexpired risks and outstanding and incurred claims, including provision for claims incurred but not reported, computed in accordance with a method approved by the Commissioner.

**44. Assessment of assets and liabilities**

(1) The Commissioner may, by notice in writing served on an insurer, require the insurer to furnish him with such information with respect to any liability of the insurer or value of an asset of the insurer as he specifies in the notice.

(2) Where the Commissioner is not satisfied that the value of a liability or asset of the insurer as determined by the insurer has been correctly determined, he may, after giving the insurer an opportunity of making representations, by notice in writing served on the insurer, require the insurer to produce a valuation of the liability or asset worked out by an independent valuer approved by the Commissioner.

**45. Establishment of statutory fund**

(1) An insurer carrying on long term insurance business in Kenya on the appointed date shall, as at the date of commencement of his financial year next after the appointed date, and every insurer commencing long term insurance business in Kenya after the appointed date shall, as at the date of commencement of that business, establish and maintain a statutory fund under an appropriate name in respect of the long term insurance business carried on by him.

(2) An insurer may establish and maintain a separate statutory fund, under an appropriate name, in respect of any class or classes of his long term insurance business.

(3) Where an insurer carries on long term insurance business of more than one class, the Commissioner may in writing direct the insurer—

- (a) to establish, maintain and appropriately name one or more separate statutory funds in respect of any class or classes of long term insurance business carried on by him;

- (b) to maintain an account in respect of each of those classes of long term insurance business and to carry and enter the receipts of each of those classes of business in the account maintained by him.

(4) All amounts received by an insurer in respect of any class of long term insurance business, after the establishment by the insurer of a statutory fund under this section, shall be carried to that fund.

(5) Where, at any time—

- (a) an insurer is maintaining more than one statutory fund in respect of his long term insurance business; and
- (b) a particular policy ceases to be included in the class of the long term insurance business of the insurer in respect of which one of the statutory funds is maintained (in this subsection referred to as “the first fund”) and commences to be included in the class of the long term insurance business of the insurer in respect of which another of the statutory funds is maintained (in this subsection referred to as “the second fund”),

the insurer shall forthwith transfer from the first fund to the second fund assets equal to the liability on the policy at that time as ascertained by an actuary and approved by the Commissioner.

(6) The income arising from the investment of the assets of a statutory fund shall be carried to and form part of that fund.

(7) The assets of each statutory fund shall be kept distinct and separate from all other assets of the insurer.

(8) An insurer carrying on long term insurance business shall maintain such books of account and other records as are necessary for identifying—

- (a) the assets representing each statutory fund maintained by the insurer under this section;
- (b) the liabilities attributable to that class or, as the case may be, each of those classes of long term insurance business.

[Act No. 12 of 1994, s. 10.]

#### **46. Application of statutory fund**

(1) Subject to this Act, no part of the assets of a statutory fund shall, so long as the insurer carries on the class or classes of long term insurance business in respect of which the fund was established—

- (a) be available to meet any liabilities or expenses of the insurer other than—
  - (i) liabilities or expenses referable to that class of long term insurance business; and
  - (ii) liabilities charged on those assets or any of them immediately prior to the appointed date,

or be otherwise directly or indirectly applied for any purpose other than the purpose of that class of long term insurance business;

(b) be—

- (i) paid, applied or allocated as dividends or otherwise as profits to shareholders; or
- (ii) transferred to another statutory fund.

(2) A mortgage or charge (including a charge imposed by a court on the application of a judgment creditor) shall be void to the extent to which it contravenes subsection (1).

(3) A person who contravenes subsection (1) shall be guilty of an offence and liable to a penalty not exceeding twenty thousand shillings and, if he is a natural person, additionally or in the alternative to imprisonment for a term not exceeding two years.

(4) Every director and principal officer of an insurer shall be under the same liability, in the event of a contravention of subsection (1), as if he had been a trustee under a trust for the execution of those provisions in respect of that fund, and as if the appropriate policy-holders had been beneficiaries of such a trust, unless the director or principal officer proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the contravention.

(5) Notwithstanding subsection (1), an insurer may, for the purposes of declaring or paying a dividend to shareholders or a bonus to policy-holders, utilize the surplus disclosed in the valuation balance sheet of a statutory fund set out in the actuary's abstract relating to an investigation made in pursuance of section 57 and accepted by the Commissioner, subject to the condition that the amount allocated or paid to the shareholders out of a statutory fund shall not exceed thirty per cent of the surplus disclosed therein after making the necessary adjustments to the surplus.

(6) The adjustments referred to in subsection (5) are—

- (a) the actual amount of income tax deducted at source during the period following the date on which the last preceding investigation was made and preceding the date on which the investigation in question is made may be added to the surplus after deducting an estimated amount of income tax on the surplus, the addition and deduction being shown in the abstract prepared by the actuary;
- (b) the surplus may be increased by contributions out of a reserve fund subject to the condition and only to the extent that the reserve fund has been made up solely of transfers from similar surpluses disclosed by investigations in respect of which the returns have been accepted by the Commissioner.

(7) Notwithstanding anything to the contrary contained in this section, an insurer carrying on long term insurance business may declare an interim bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter-investigation period on the recommendation of the investigating actuary made at the last preceding investigation.

[Act No. 8 of 1991, s. 81, Act No. 9 of 1992, s. 59, Act No. 12 of 1994, s. 11, Act No. 8 of 1996, s. 52, Act No. 4 of 1999, s. 12.]



**47. Assets to be in the name of insurer**

(1) Unless the Minister direct otherwise, none of the assets in Kenya of an insurer shall, except in the case of assets required by law or by a requirement imposed by the Minister under subsection (3) to be vested in trustees, be kept otherwise than in the name of the insurer.

(2) Nothing contained in subsection (1) shall be deemed to prohibit the endorsement in favour of a bank of any security or other document solely for the purpose of collection or realisation of any interest, bonus or dividend.

(3) The Minister may direct that the whole or a specified portion of the assets of an insurer shall be held by a person approved by him as trustee of the insurer.

(4) Assets of an insurer held by a person as trustee for an insurer shall be held by him in compliance with a direction given under this section if, and only if, they are assets in whose case the insurer has given him written notice that they are to be held by him in compliance with such a requirement, or they are assets into which the first-mentioned assets have been transposed by him on the instructions of the insurer.

(5) No assets held by a person as trustee for an insurer in compliance with a direction given under this section shall, so long as the direction is in force, be released except with the consent of the Minister.

(6) If a mortgage or charge is created by an insurer at a time when there is in force a direction imposed on the insurer by virtue of this section, being a mortgage or charge conferring a security on any assets which are held by a person as trustee for the insurer in compliance with the direction, the mortgage or charge shall, to the extent that it confers such a security, be void against the liquidator and any creditor of the insurer.

**48. Investment of assets**

(1) Subject to subsection (2) of this section, and sections 41 and 50 and subject to any provisions in the instruments constituting the insurer or in the articles of association or other rules of the insurer which impose restrictions upon the manner in which the assets of the insurer may be invested, the assets of an insurer shall, with sufficient regard to considerations of security, liquidity and income, be invested in Kenya in such manner as the insurer thinks fit:

Provided that the assets of a statutory fund shall not, without the written approval of the Commissioner, be invested directly or indirectly in any share or interest in any other insurer.

(2) Notwithstanding the provisions of subsection (1), the Commissioner with the prior approval of the Minister may, if he deems it appropriate and subject to sufficient considerations of security, liquidity, income and diversification and to such further conditions as he considers necessary, authorize the assets of an insurer or to be invested outside Kenya.

[Act No. 12 of 1994, s. 12.]

**49. Unsuitable investments**

If at any time the Commissioner considers an investment constituting an insurer's assets to be unsuitable or undesirable, he may after giving notice to the insurer stating the grounds on which he proposes to exercise his power under

this section and giving the insurer an opportunity of being heard, direct the insurer to realize the investment, and the insurer shall comply with the direction within such time as may be specified in that behalf by the Commissioner.

#### **50. Specified investments**

(1) Subject to subsection (5), the admitted assets of an insurer carrying on long term insurance business shall be invested and kept invested in the following manner—

- (a) twenty per cent of the total admitted assets, in one or more of the securities set out in subsection (3):  
Provided that fifty per cent of such securities are securities of the Government of a duration of two or more years;
- (b) a further proportion, amounting to not less than sixty-five per cent, in one or more of the investments set out in subsection (4);
- (c) the balance, subject to section 48 and the other provisions of this section, in such investments in Kenya as the insurer thinks fit.

(2) Subject to subsection (5), the admitted assets of an insurer carrying on general insurance business required by section 41(2) to be maintained by the insurer shall be invested and kept invested in the following manner—

- (a) ten per cent in one or more of the securities set out in subsection (3);
- (b) a further proportion, amounting to not less than thirty per cent, in one or more of the investments set out in subsection (4);
- (c) the balance, subject to section 48 and the other provisions of this section, in such investments in Kenya as the insurer thinks fit.

(3) The securities referred to in subsections (1)(a) and (2)(a) are securities of—

- (a) the Government;
- (b) prescribed statutory bodies;
- (c) local authorities;
- (d) any other prescribed organisation.

(4) The investments referred to in subsections (1)(b) and (2)(b) are as follows—

- (a) the securities set out in subsection (3);
- (b) mortgages on unencumbered immovable property in Kenya;
- (c) debentures, commercial paper, preference shares or ordinary shares of public companies whose shares are quoted in the stock exchange in Kenya;
- (d) debentures, commercial paper, preference shares or ordinary shares of public companies whose shares are quoted on the stock exchange in Kenya;
- (e) instruments of title to immovable property in Kenya;
- (f) loans on life assurance policies constituting a liability on Kenya business within their surrender values;

- (g) deposits in banks or financial institutions licensed under the Banking Act (Cap. 488):

Provided that—

- (i) where the insurer carries on long term insurance business, the deposits in any one bank or financial institution shall not exceed five per cent of the total value of the assets of the insurer relating to that business;
  - (ii) where the insurer carries on general insurance business, the deposits in any one bank or financial institution shall not exceed ten per cent of the total value of the assets of the insurer relating to that business;
- (h) any other prescribed securities;
- (i) promissory notes, bills of exchange or other instruments issued by a company incorporated under the Companies Act (Cap. 486):

Provided that the promissory notes, bills of exchange or other instruments are guaranteed by a bank licensed under the Banking Act (Cap. 488).

(5) In respect of an investment falling under paragraph (c) of subsection (1) or paragraph (c) of subsection (2) which does not also come under paragraph (a) or (b) of subsection (2), the investment shall be made after the appointed date, or, if already existing on the appointed date, shall be continued after one year from the appointed date, only with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors, and all such investments, including investments in which any director is interested, shall be reported without delay to the Commissioner with full details of the investments and the extent of the director's interest therein.

(6) *Deleted by Act No. 12 of 1994, s. 13.*

(7) For the purposes of compliance with the provisions of this section, cash in accounts with banks shall be excluded.

(8) Where an insurer has carried on insurance business in Kenya immediately prior to the appointed date, the provisions of subsections (1) and (2) shall in respect of that insurer come into operation as at the date of the commencement of the financial year next after the appointed date or, upon the application in writing of any insurer, such other date as the Minister may, subject to such terms and conditions as he considers necessary, in writing notify.

(9) An insurer shall not invest any part of his assets in the shares or debentures or loans of any one company or group of related companies more than—

- (a) in the case of long term insurance business, five per cent of the total admitted assets relating to that business; or
- (b) in the case of general insurance business, five per cent of the total admitted assets relating to that business:

Provided that the investments shall be adequately secured by a first legal charge on unencumbered property in Kenya.

(10) Where a company or group of related companies referred to in subsection (9) is a bank or financial institution or group of banks or financial institutions, the per centage under that subsection shall be ten per cent.

(11) Nothing in subsection (9) shall apply to an investment made by an insurer in the shares of another insurer if that other insurer is a company within the meaning of section 2 of the Companies Act and carries on insurance or reinsurance business in Kenya.

(12) Where an investment is in partly paid up shares the uncalled liability on those shares shall be added to the amount invested for the purpose of computing the per centage referred to in paragraph (a) of subsection (9).

(13) For the purposes of subsections (1) and (2), the amount of any deposit made under section 32 shall be deemed to be assets invested or kept invested in the securities set out in subsection (3).

[Act No. 18 of 1986, Schedule, Act No. 12 of 1994, s. 13, Act No. 5 of 1998, s. 52, Act No. 8 of 2008, s. 61.]

#### **51. Restriction on mortgages, etc. of assets**

(1) An insurer may, to secure temporary loans or bank overdrafts, mortgage or charge assets not exceeding ten per cent of the total value of the admitted assets of the insurer.

(2) Subject to subsection (1), an insurer shall not mortgage or charge any of his assets.

### **PART VI – ACCOUNTS, BALANCE SHEETS, AUDIT AND ACTUARIAL INVESTIGATIONS**

#### **52. Separate accounts for each class**

Where an insurer carries on more than one class of long term insurance business or more than one class of general insurance business, he shall keep separate accounts of receipts and payments in respect of each prescribed class of insurance business carried on by him.

#### **53. Apportionment between classes**

Where a single amount received or paid, whether in respect of premiums, investment income, claims, commissions, reinsurance costs, administration costs, taxes or otherwise, is received or paid in respect of more than one class of business prescribed under section 52, and the amount is not otherwise allocatable between the different classes, the insurer shall, for the purposes of this part, apportion the amount in an equitable manner between the classes of insurance business in respect of which it is received or paid.

#### **54. Accounts and balance sheets**

(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.

(1A) The revenue account, balance sheet, profit and loss account and financial statement required to be prepared under subsection (1) shall be prepared in accordance with International Financial Reporting Standards and such accepted Kenyan reporting standards as may be prescribed.

(2) Every reserve shall be calculated in accordance with the method approved for the purpose by the Commissioner.

(3) All amounts which are required to be shown in any account or balance sheet shall be shown in Kenya currency to the nearest shilling.

(4) Notwithstanding the definition of “financial year” in section 2, the first financial year after the appointed date of an insurer shall mean the period ending on 31st December next after the appointed date.

(5) In subsection (1A), “**International Financial Reporting Standards**” means—

- (a) the standards issued by the International Accounting Standards Board of London; or
- (b) Kenyan accepted standards developed by the Institute of Certified Public Accountants of Kenya.

[Act No. 9 of 2003, s. 5, Act No. 9 of 2007, s. 57.]

## **55. Accounting records**

(1) An insurer shall—

- (a) keep such accounting records as correctly record and explain the transactions and financial position of the insurer with respect to his insurance business;
- (b) so keep his accounting records as to enable the accounts, reports and statements required under this Part to be prepared;
- (c) so keep his accounting records as to enable those accounts and statements to be conveniently and properly audited in accordance with this Act.

(2) An insurer shall retain his accounting records kept in accordance with subsection (1) for at least seven years after the completion of the transactions to which they relate.

(3) *Deleted by Act No. 9 of 2003, s. 6.*

[Act No. 9 of 2003, s. 6.]

## **56. Audit and auditor’s certificate**

(1) The accounts of every insurer shall be audited annually by an auditor.

(2) The auditor shall in a certificate relating to accounts and statements in respect of a financial year of an insurer, state whether—

- (a) the accounts and statements to which it relates appear to him to be in accordance with the Act and give particulars of any matters that do not appear to him to be so in accordance;
- (b) the accounting records of the insurer in respect of that year appear to him to have been properly kept and to record and explain correctly the transactions and financial position of the insurer and give particulars of accounting records that appear to him not to have been so kept and of transactions that appear to him not to have been so recorded;
- (c) in respect of that year, he has obtained the information and explanations that he requested and give particulars of information and explanations he requested but did not obtain;
- (d) he is satisfied that the accounts and statements referred to in paragraph (a) agree with the accounting records of the insurer and appear to him truly to represent the transactions and financial position of the insurer in respect of the financial year to which they relate and, if any of them appear to him to fail so to represent the transactions and financial position, give particulars of the failure;
- (e) amounts required by section 53 to be apportioned have been equitably apportioned and if they have not been so apportioned give particulars of the failure;
- (f) all management expenses wherever incurred in respect of the insurer's business, whether directly or indirectly, have been fully debited in the revenue account or profit and loss account as expenses and, if they have not been so debited, give particulars of the amounts not so debited;
- (g) every reserve has been calculated in accordance with the method approved for the reserve by the Commissioner and, if they have not been so calculated, give particulars of the reserves not so calculated.

(3) The auditor shall in addition issue in relation to the accounts the certificate required under the Companies Act (Cap. 486).

(4) For the purposes of this section every insurer shall appoint annually an auditor qualified under section 161 of the Companies Act (Cap. 486) and approved by the Commissioner.

(5) If an insurer fails to appoint an approved auditor under subsection (4), or to fill any vacancy for an auditor which may arise, the Commissioner may appoint an auditor and fix the remuneration to be paid by the insurer to him.

(6) The Commissioner may require an auditor to undertake the following duties in addition to those prescribed under subsections (2) and (3)—

- (a) to submit such additional information in relation to his audit as the Commissioner may consider necessary;
- (b) to carry out any other special audit or investigations; and

- (c) to submit a report on any of the matters referred to in paragraphs (a) and (b);

and the insurer concerned shall remunerate the auditor in respect of the discharge by him of all or any of such additional duties.

(7) If the auditor of an insurer fails to comply with the requirements of this Act, the Commissioner may remove him from office and appoint another person in his place.

(8) A person shall not be qualified for appointment as an auditor of an insurer if he is—

- (a) a director, officer or employee of that insurer; or
- (b) a person who is a partner of a director, officer or employee of that insurer; or
- (c) a person who is an employee or employee of a director, officer or employee of that insurer; or
- (d) a person who is a director, officer or employee, of a person related to that insurer; or
- (e) a person who, by himself, or his partner or his employee, regularly performs the duties of secretary or accountant for that insurer; or
- (f) a firm or member of a firm of auditors of which any partner or employee falls within the above categories.

(9) (a) No duty to which an auditor of an insurer may be subject shall be regarded as contravened by reason of his communicating in good faith to the Commissioner, whether or not in response to a request made by him, any information or opinion on a matter to which this Act applies.

(b) This subsection applies to any matter of which an auditor becomes aware in his capacity as an auditor or in the discharge of his duties under this Part and which relates to the business or affairs of the insurer.

[Act No. 12 of 1994, s. 14.]

## 57. Actuarial investigation

(1) An insurer who carries on long term insurance business—

- (a) shall on the 31st December in every year and irrespective of any contrary provision in the articles of association or deed of settlement, cause an investigation to be made into his financial condition in accordance with section 58; and
- (b) when such an investigation has been made, or when at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of profits, or the results of which are made public, shall cause an abstract of the actuary's report of the investigation to be made in such form and containing such matters as may be prescribed:

Provided that in the case of an insurer who was carrying on long term insurance business in Kenya immediately prior to the appointed date, the last date as at which the first investigation after the appointed date should be made shall be a date not later than three years from the appointed date or the date of expiration of five years from the date as at which the last investigation was made by an actuary before the appointed date, whichever is earlier.

(2) An investigation to which subsection (1) relates shall include—

- (a) a valuation of the liabilities of the insurer attributable to his long term insurance business; and
- (b) a determination of any excess over those liabilities of the assets representing the fund or funds maintained by the insurer in respect of that business and, where any rights of any long term policy-holders to participate in profits relate to particular parts of such a fund, a determination of any excess of assets over liabilities in respect of each of those parts.

(3) Whenever an investigation to which subsection (1) relates is made, the insurer shall prepare a statement, in such form and containing such matters as may be prescribed, of its long term insurance business as on the date on which the investigation is made.

(4) When an investigation to which subsection (1) relates is made as at a date other than the expiry of a financial year of the insurer, the accounts for the period since the expiry of the last year of account and the balance sheet on the date as at which the investigation is made shall be prepared and audited in the manner provided under sections 54 and 56.

(5) Subject to section 58, for the purposes of an investigation to which this section relates, the value of any assets and the amount of any liabilities shall be determined in accordance with regulations.

[Act No. 18 of 1986, Schedule, Act No. 12 of 1994, s. 15.]

## **58. Actuarial valuations**

(1) The provisions of this section apply in relation to valuation made, in respect of an insurer carrying on long term insurance business, in pursuance of section 57.

(2) The basis of valuation adopted shall be such as to place a proper value upon the liabilities having regard to the mortality experience among the persons whose lives have been insured by the insurer, to the average rate of interest from investments and the expenses of management (including commission), and shall be such as to ensure that no policy is treated as an asset.

(3) The value placed upon the aggregate liabilities of a statutory fund in respect of policies by reason of the adoption of any basis of valuation shall not be less than it would have been if it had been calculated on the minimum basis prescribed.

(4) The actuary who makes the valuation shall certify whether in his opinion the value placed upon the aggregate liabilities relating to a statutory fund in respect of policies by the valuation is not less than the value which would have been placed upon those aggregate liabilities if it had been calculated on the minimum basis prescribed.

(5) In making a determination in terms of section 57(2)(b), the actuary shall—

- (a) take necessary steps to ensure that any sum representing expenses of organisation or extension, or the purchase of business or goodwill or other intangible assets, are equitably allocated between the



different statutory funds and are appropriately deducted from the surplus disclosed in each fund or appropriately added to the deficiency disclosed in each fund, as the case may be;

- (b) satisfy himself that the value of the assets adopted by him are, on the basis of the auditor's certificates appended to the balance sheet, fully of the value so adopted; and
- (c) certify in regard to the matters specified in subsections (2) and (3) and paragraphs (a) and (b) of this subsection in the prescribed form.

(6) If the Commissioner considers that an investigation under section 57 does not properly indicate the state of affairs of the insurer due to a faulty basis having been adopted in the valuation, the Commissioner may, after giving the insurer a reasonable opportunity of making representations, cause a further investigation in accordance with section 57 and this section as at a date which he may specify to be made at the expense of the insurer by an actuary appointed by the Commissioner or, if the Commissioner so agrees, by an actuary appointed by the insurer and approved by the Commissioner.

(7) The insurer shall make available to the actuary all documents and information required by him for the purpose of the further investigation or valuation under subsection (6) within such period, not being less than three months, as the Commissioner may specify.

(8) An actuary making an investigation or valuation under subsection (6) shall prepare and attach to his report an abstract and a statement of the long term business of the insurer as for an investigation under section 57.

[Act No. 5 of 1998, s. 53.]

## **59. Returns**

An insurer shall prepare as at the end of each financial year, in respect of that year, statements and certificates in the prescribed form relating to the business carried on during the year and the business in force at the end of the year and shall furnish those statements and certificates, signed in the prescribed manner, to the Commissioner within such time as may be prescribed.

[Act No. 5 of 1998, s. 54.]

## **60. Accounts and statements to be signed**

(1) The audited balance sheet, profit and loss account and revenue account required to be prepared under this Part shall be signed by two directors and the principal officer of the insurer or, if there is only one director, by that director and by the principal officer.

(2) A report or abstract of an actuary made under this Part shall be signed by the actuary who made the investigation or valuation.

(3) A statement or return other than a balance sheet, profit and loss account, revenue account or actuarial report or abstract shall be signed by the principal officer.

[Act No. 12 of 1994, s. 16.]

**61. Submission of accounts and statements**

(1) Every account, balance sheet, certificate, abstract, return or statement required to be prepared or prepared under sections 54, 56, 57, 58 and 59 shall be printed, and four copies thereof authenticated and certified in the prescribed manner shall be deposited with the Commissioner within four months after the end of the period to which they relate:

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.

(2) The Commissioner may on the application of an insurer extend or further extend the time specified in subsection (1) for a period not exceeding three months.

(3) Where on receipt of any of the documents submitted under subsection (1), any account, balance sheet, certificate, abstract, return or statement is found to be incomplete or erroneous or misleading, the Commissioner may reject it and the insurance shall be deemed not to have complied with the requirements of subsection (1) or (2), as the case may be, unless the document is resubmitted within the period specified under those subsections.

(4) Where an insurer fails to submit any document under subsection (1) within the period prescribed in that subsection or in subsection (2), the insurer may make a late submission of the document upon payment of a penalty of two hundred thousand shillings and a further penalty of ten thousand shillings for every day after the expiry of the prescribed period during which the document remains unsubmitted.

(4A) The annual accounts and statement of an insurer shall be in such form as the Authority may, from time to time, require and subject to such conditions as the Commissioner may prescribe, may be submitted through the use of information technology.

(5) The penalty under subsection (4) shall be paid to the Policy-holders Compensation Fund in such manner as may, from time to time, be prescribed by the Authority.

[Act No. 12 of 1994, s. 17, Act No. 9 of 2003, s. 7, Act No. 9 of 2007,  
Section 58, Act No. 10 of 2010, s. 54.]

**62. Further information**

(1) An insurer shall, if so required by the Commissioner by notice in writing served on him, furnish, within such period after service of the notice, not being less than ten days, as the Commissioner specifies in the notice, information with respect to such matters relating to an account, balance sheet, certificate, abstract, return or statement deposited by him under this section as he so specifies.

(2) Where a person fails to comply with the requirements of subsection (1), the Commissioner may decline to accept the document in respect of which the further information was sought, whereupon the document shall be deemed not to have been deposited in terms of this Act.

[Act No. 12 of 1994, s. 18.]

**63. Other reports**

(1) An insurer shall deposit with the Commissioner a certified copy of every report on the affairs of the concern which is submitted to the members or policyholders of the insurer immediately after its submission to the members or policyholders, as the case may be.

(2) An insurer, being a body corporate incorporated in Kenya, shall deposit with the Commissioner a certified copy of the minutes of the proceedings of every general meeting, as entered in the minute book of the body corporate, within thirty days from the holding of the meeting to which those minutes relate.

**64. Returns sufficient compliance with Companies Act (Cap. 486)**

Where an insurer in any year deposits his accounts and balance sheet in accordance with the provisions of section 61 then, if the company at the same time sends a copy of the accounts and balance sheet to the Registrar of companies under the Companies Act (Cap. 486)—

- (a) section 128(1) of that Act (which requires certain documents to be included in the annual return made by a company) shall not apply to that company; and
- (b) the copy of the accounts and balance sheets so sent shall be dealt with in all respects as if it had been sent in compliance with that subsection.

**65. Rectification of returns**

(1) The Commissioner may, if it appears to him that any account, balance sheet, abstract, certificate, statement, return, report or other document deposited with him under the provisions of this Act is inaccurate or defective in any respect, require the inaccuracy or defect to be rectified within such time, not being less than ten days as he may specify in writing.

(2) Where a person fails to comply with a direction given under subsection (1), the Commissioner may decline to accept the document required to be rectified, whereupon the document shall be deemed to have not been deposited in terms of this Act.

[Act No. 12 of 1994, s. 19.]

**66. Penalty for false statements**

If any account, balance sheet, abstract, return, certificate, statement or other document required to be deposited or deposited under any provision of this Act is false in any material particular to the knowledge of any person who signs it, that person shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

**67. Penalty for failure to comply with requirements of Part**

(1) An insurer who fails to comply with any requirement under this Part shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings; and if the offence is a continuing one, to a further fine of five thousand shillings for every day during which the offence continues.

(2) Where a person guilty of an offence under this Part is a natural person, that person shall be liable, in addition to, or in the alternative to, a fine, to imprisonment for a term not exceeding two years.

(3) Where a person guilty of an offence under this Part is a body corporate, then notwithstanding the imposition of any penalty, the commission of that offence shall constitute grounds whereby the Commissioner may apply to the court for the winding up of that body corporate.

[Act No. 12 of 1994, s. 20, Act No. 8 of 1996, s. 53.]

## PART VIA – INSPECTION AND CONTROL OF INSURERS

### 67A. Inspection of Insurers

(1) The Commissioner may, at any time and from time to time, and shall, if so directed by the Minister, cause an inspection to be made by any person authorized by him in writing, of any insurer and any other person registered under this Act, and of his books, accounts and records.

[Act No. 12 of 1994, s. 21.]

(2) When an inspection is made under subsection (1), the insurer and any other person registered under this Act, concerned and every officer and employee thereof shall produce and make available to the person making the inspection all the books, accounts, records and other documents of the insurer and any other person registered under this Act, and such correspondence, statements and information relating to the insurer, and any other person registered under this Act, its business and the conduct as thereof as the person as making the inspection may require and within seven days or such longer times as he may direct in writing.

(3) Any failure to produce any books, accounts, records, documents, correspondence, statements, returns or other information within the period specified in the direction under subsection (2) constitutes a contravention of the provisions of this Act:

Provided that—

- (a) the books, accounts and other documents required to be produced shall not, in the course of inspection, be removed from the premises of the insurer or reinsurer or other premises at which they are produced;
- (b) the person making the inspection may make copies of any books, accounts and other documents required for the purposes of his report; and
- (c) all information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of this Act.

(4) The person making the inspection shall submit his report to the Commissioner; and the report shall draw attention to any breach or non-observance of the requirements of this Act and any regulations made thereunder, any irregularity in the manner of conduct of the business of the insurer and any other person registered under this Act or any apparent mismanaging or lack of management skills in that insurer and any other person registered under this Act,

and any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the person making the inspection, remedial action or further investigation.

[Act No. 12 of 1994, s. 21, Act No. 9 of 2003, s. 8.]

#### **67B. Directions to person inspected**

The Commissioner may, by notice in writing, and after giving the insurer and any other person registered under this Act, a reasonable opportunity of being heard, require the inspected person to comply by such date or within such period as may be specified therein, with such directions as he considers necessary in connection with any matter arising out of a report made under section 67A.

[Act No. 12 of 1994, s. 21, Act No. 9 of 2003, s. 9.]

#### **67C. Power of the Commissioner to intervene in management**

(1) This section applies and the powers conferred by subsection (2), may be exercised in the following circumstances—

- (a) if the insurer is found to have failed to meet the minimum solvency margin required under section 41 of the Act;
- (b) if the insurer has failed to submit any of the accounts, returns, statements, actuarial valuations or other reports under Part VI for over six months after the end of the financial year to which they relate;
- (c) if the insurer having failed to comply with any requirement of this Act, has continued that failure, or having contravened any provision of this Act, has continued that contravention for a period of six months after notice of such failure or contravention has been given to him by the Commissioner;
- (d) where, having regard to the financial circumstances of the person registered, the Commissioner is satisfied that the person cannot carry on the business, or any part of the business, for which he is registered, as the case may be, in a satisfactory and efficient manner;
- (e) if an amount due by the insurer under a judgement entered into in an action in Kenya arising out of a policy of insurance issued by the insurer or a contract of reinsurance entered into by a reinsurer, has remained unpaid for three months after the date of the final adjudication in that action;
- (f) if the business of the insurer is wholly or is unproportionately reinsured with another person;
- (g) if the insurer is unable to pay his debts within the meaning of section 220 of the Companies Act (Cap. 486);
- (h) if the insurer is found to have made adequate reserves or to have understated the level of his liabilities;
- (i) if the insurer is discovered to have submitted or provided any accounts, returns, statements, books, records, correspondence, documents or other information relating to his business which is false or misleading; or

- (j) if the Commissioner discovers, whether on an inspection or otherwise, or becomes aware of any fact or circumstance which, in his opinion, warrants the exercise of the relevant power in the interests of the insurer, its shareholders, policy-holders, or reinsurer or in the public interest.

(2) The Commissioner may, with the approval of the Board—

- (i) appoint any person (in this Act referred to as “a manager”) to assume the management, control and conduct of the affairs and business of an insurer to exercise all the powers of the insurer to the exclusion of its Board of Directors, including the use of its corporate seal;
- (ii) remove any officer or employee of an insurer who, in the opinion of the Commissioner, has caused or contributed to any contravention of any provisions of this Act, or any regulations or directions made thereunder or to any deterioration in the financial stability of the insurer or has been guilty of conduct detrimental to the interests of policy-holders or other creditors of the insurer;
- (iii) appoint three competent persons familiar with the business of insurers to its Board of Directors to hold office as directors who shall not be removed from office without the approval of the Commissioner;
- (iv) by notice in the *Gazette*, revoke or cancel any existing power of attorney, mandate, appointment or other authority by the insurer in favour of any officer, employee or any other person.

(3) The appointment of a manager shall be for such period, not exceeding twelve months, as the Commissioner shall specify in his instrument of appointment and may be extended by the High Court, upon the application of the Commissioner if such extension appears to the High Court to be justified.

(4) A manager shall, upon assuming the management control and conduct of the affairs and business of an insurer, discharge his duties with diligence and in accordance with sound insurance, actuarial and financial principles and, in particular, with due regard to the interests of the insurer, its policy-holders and the insuring public in general.

(5) The responsibilities of a manager shall include—

- (a) tracing, preserving and securing all the assets and property of the insurer;
- (b) recovering all debts and other sums of money due to and owing to the insurer;
- (c) evaluating the solvency and liquidity of the insurer;
- (d) assessing the insurer’s compliance with the provisions of this Act and regulations made or directions issued thereunder;
- (e) determining the adequacy of the capital and reserves and the management of the insurer and recommending to the Commissioner any restructuring or reorganisation which he considers necessary and which, subject to the provisions of any other written law, may be implemented by him on behalf of the insurer; and

- (f) obtaining from any former principal officer, director, secretary, officer or employee of the insurer any documents, records, accounts, statements, correspondence or information relating to its business.

(6) The Manager shall, within a period of twelve months from the date of his appointment, prepare and submit to the Commissioner a report on the financial position and the management of the insurer with recommendations as to whether—

- (i) the insurer is capable of being revived; or  
(ii) the insurer should be liquidated.

(7) The Commissioner shall, after taking into account the report of the manager, make appropriate recommendations to the Board, who shall then take a decision on the matter.

(8) Where the Board decides that the insurer should be liquidated, the provisions of section 123 shall apply.

(9) Neither the Commissioner or any other officer or employee of the Commissioner, nor the manager nor any other person appointed, designated or approved by the Commissioner under the provisions of this Part shall be liable in respect of any act or omission done in good faith in the execution of the duties undertaken by him.

(10) For the purposes of discharging his responsibilities, a manager shall have power to declare a moratorium on the payment by the insurer of its policy-holders and other creditors and the declaration of a moratorium shall—

- (a) be applied equally to all classes of policy-holders and creditors, subject to such exemptions in respect of any class of insurance as the manager may, by notice in the *Gazette* specify;  
(b) suspend the running of time for the purposes of any law of limitation in respect of any claim by any policy-holder or creditor of the insurer;  
(c) cease to apply upon the termination of the manager's appointment whereupon the rights and obligations of the insurer, its policy-holders and creditors shall, save to the extent provided in paragraph (b), be the same as if there had been no declaration under the provisions of this subsection.

[Act No. 12 of 1994, s. 21, Act No. 8 of 1996, s. 54, Act No. 11 of 2006, s. 14.]

#### **67D. Part to apply to unregistered and unauthorized persons**

(1) Without prejudice to the provisions contained under section 19, the provisions of this Part shall apply to any person who, in the opinion of the Commissioner, is, or is deemed or suspected to be carrying on or transacting insurance or reinsurance business without registration, renewal of registration or authorisation under this Act.

(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 authorisation, 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;
- (c) committing any other business malpractices,

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 to the Policy Holders' Compensation Fund in such manner as may, from time to time, be prescribed by the Authority.

[Act No. 12 of 1994, s. 21, Act No. 9 of 2003, s. 10, Act No. 9 of 2007, s. 59,  
Act No. 10 of 2010, s. 55.]

#### **67E. Powers of inspector**

(1) An inspector may, by notice in writing, require any person who is or has at any time been a director, managing director, secretary, principal officer, manager, officer or employee, agent, accountant, broker, auditor or actuary of the person being inspected to—

- (a) give to the inspector all reasonable assistance in connection with the inspection; or
- (b) appear before the inspector for examination concerning matters relevant to the inspection; or
- (c) produce any books or documents that relate to the affairs of the person being inspected.

(2) A person who—

- (a) refuses or fails to comply with a requirement of an inspector which is applicable to him, to the extent to which he is able to comply with it; or
- (b) obstructs or hinders an inspector in the exercise of his powers under this Act; or
- (c) furnishes information or makes a false statement which he knows to be false or misleading in any material particular; or
- (d) when appearing before an inspector for examination pursuant to such requirement, makes a statement which he knows to be false or misleading in any material particular,

commits an offence.

(3) A person convicted of an offence under subsection (2) shall be liable to a fine not exceeding fifty thousand shillings or, in the case of a natural person, to imprisonment for a term not exceeding three years, or to both.

(4) Where an offence under subsection (2) is a continuing one, the person shall, in addition to the penalty prescribed under subsection (3), be liable to a further fine of one thousand shillings for every day during which the offence continues.

(5) Where a person convicted under subsection (3) is a body corporate, the Commissioner may, notwithstanding any other penalty imposed under that subsection, apply to court for the winding up of the person.

[Act No. 12 of 1994, s. 21.]



**67F. Expenses under Part**

Any expenses incurred by reason of the exercise of any of the powers conferred by this Part in respect of an insurer shall be met by that insurer.

[Act No. 12 of 1994, s. 21.]

**67G. Power to protect the assets of an insurer**

(1) The Authority may, for the purpose of protecting the interests of the policy-holders, assume control of the whole or part of the insurer's assets, and shall register any instrument under the relevant law or take any other appropriate action it may deem necessary.

(2) The Authority shall hold the directors of the insurer to be jointly and severally liable for the recovery of the assets under subsection (1), where it establishes that the assets of the insurer have been misappropriated.

[Act No. 4 of 2012, s. 34.]

**PART VII – MANAGEMENT AND EXPENSES****68. Approved principal officer to be appointed**

(1) For the purposes of this section “**registered person**” means a person registered under this Act as an insurer, reinsurer, broker, agent, medical insurance provider, insurance surveyor, risk manager, loss assessor, loss adjuster or claims settling agent.

(2) Every registered person shall, at all times while he is so registered, have a principal officer.

(3) The principal officer appointed under subsection (2) shall be ordinarily resident in Kenya and shall be responsible for the general control, direction and supervision of the Kenya insurance business of the registered person and shall represent the registered person for the purposes of this Act.

(4) Everything done by the principal officer or a person acting as the principal officer of the registered person in his representative capacity shall, for the purposes of this Act, be deemed to have been done by the registered person, but this subsection shall not affect any liability of the principal officer or person acting as the principal officer under this Act.

(5) Where the principal officer is, or is about to be, absent from Kenya for a period exceeding three months or for any reason unable to perform his duties as principal officer, the registered person shall, if he does not revoke the appointment and appoint another person under subsection (2). appoint another person (not being a body corporate) resident in Kenya to act as the principal officer of the person registered for the purposes of this Act during the absence or inability.

(6) An appointment under this section shall be deemed not to have been duly made or revoked until the registered person has given notice in writing of the appointment or revocation to the Commissioner specifying the name and, in the case of an appointment, the place of residence of the person appointed.

(7) Every notice to the Commissioner regarding the appointment of a principal officer shall contain the following particulars—

- (a) full name;

- (b) date and place of birth;
- (c) citizenship;
- (d) academic and professional qualifications;
- (e) work experience giving dates and nature of previous employment;
- (f) whether he has ever been convicted of an offence involving fraud or dishonesty and if so details of the offence, place and date;
- (g) whether he has ever been adjudicated bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration for their benefit and, if so, details.

(8) If it appears to the Commissioner that the person appointed as principal officer is not a fit and proper person to be a principal officer, the Commissioner may, after giving the person concerned an opportunity of being heard, object to the appointment.

(9) Where the Commissioner objects to the appointment of a principal officer he shall record the reasons for his decision and furnish a copy thereof to the registered person, who shall forthwith revoke the appointment.

[Act No. 9 of 2003, s. 11.]

#### **69. Directors, managers, employees and their remuneration**

(1) Subject to subsection (2), no insurer shall be directed or managed by, and no insurer shall employ in any capacity, a person whose remuneration or any part thereof takes the form of commission or bonus or of a share in the valuation surplus in respect of long term insurance business.

(2) The prohibition contained in subsection (1) shall not apply to the employment of agents or brokers, or to the employment of persons who share in the profits of general insurance business by way of bonus payments or otherwise.

(3) A managing director or employee of an insurer shall not be a managing director or employee of another insurer or of a bank or financial institution.

(4) After the expiry of two years from the appointed date no agent, and where the agent is a company or firm, no managing or other director of an agent, and no broker, or managing or other director of a broker shall—

- (a) be appointed or continue as a director of an insurer registered under this Act;
- (b) directly or indirectly acquire or hold more than one per cent of the shares or controlling interest in an insurer registered under this Act.

(5) After the expiry of two years from the appointed date, no insurer and no director or employee of an insurer shall directly or indirectly hold shares in or have any other financial or controlling interest in the affairs of an agent or broker.

(6) A person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and if the offence is a continuing one, to a further fine of one hundred shillings for every day during which the offence continues.

[Act No. 12 of 1994, s. 22.]

**70. Limitation of management expenses**

(1) No insurer shall spend in any financial year as expenses of management an amount in excess of the prescribed limits, and in prescribing those limits regard shall be had to the size and age of the insurer and the provision generally made for management expenses in the premium rates of insurers.

(2) The Commissioner may, in any year, after consultation with the Advisory Board, fix for the succeeding year the extent to which the limits prescribed in regulations may be relaxed, and an insurer shall not be deemed to have contravened the provisions of subsection (1) if his expenses of management referred to in that subsection are within those, relaxed limits.

**71. Restrictions on loans, advances, etc. by insurer**

(1) No insurer shall, in Kenya—

- (a) grant any loan, advance, financial guarantee or other credit facility against the security of his own shares; or
- (b) grant to or permit to be outstanding without adequate security any loan, advance, financial guarantee or other credit facility not being a loan against and within the surrender value on a policy of life assurance issued by that insurer, to any shareholder, director, officer or employee or member of his family, or to any company of which the shareholder, director, officer or employee or member of his family is a shareholder, director, officer or employee:

Provided that an insurer may grant to an officer or employee, on compassionate grounds, an unsecured loan or advance not exceeding one hundred thousand shillings subject to the condition that no further loan or advance shall, at any time, be granted if any previous loan or advance has not been fully repaid.

(2) The provisions of section 191 of the Companies Act (Cap. 486) shall not apply to a loan granted to a director of an insurer if the loan is one granted on the security of a policy of life assurance on which the insurer bears the risk and the policy was issued to the director on his own life and the loan is within the surrender value of the policy.

(3) Any loan, advance, credit facility, financial guarantee or other liability granted or permitted to be outstanding in contravention of the provisions of this section and existing on the appointed date shall be notified by the insurer to the Commissioner within thirty days of that date and shall, notwithstanding any contract to the contrary, be repaid or discharged within one year from that date.

(4) Where an event occurs giving rise to circumstances the existence of which at the time of the grant of a subsisting loan, advance, credit facility, financial guarantee or other liability would have made that grant a contravention of this section, the loan, advance, credit facility, financial guarantee or other liability shall, notwithstanding anything in the contract to the contrary, be repaid or discharged within three months from the occurrence of that event.

(5) In case of default in complying with the provisions of subsection (3) or subsection (4), a director, officer, or employee who may be concerned shall, without prejudice to any other penalty which he may incur, cease to hold office

under, be employed by or act for, the insurer granting the loan, advance, credit facility, financial guarantee or other liability on the expiry of the period of one year or three months, as the case may be.

(6) The Commissioner may extend the period of one year referred to in subsection (3) by periods of not more than six months at a time and, where any such extension has been granted, the reference to the period of one year in subsection (5) shall be construed as a reference to the extended period.

[Act No. 10 of 2010, s. 56.]

## **72. Limitation on employment of managing agents**

(1) No insurer shall on or after the appointed date appoint a managing agent for the conduct of his business.

(2) Where an insurer engaged in the business of insurance before the appointed date has employed a managing agent for the conduct of his business then, notwithstanding anything to the contrary contained in the Companies Act (Cap. 486), and notwithstanding anything to the contrary contained in the articles of the insurer, or in any agreement entered into by the insurer, the managing agent shall cease to hold office on the expiry of his contract of employment or of two years from the appointed date, whichever is earlier, and no compensation shall be payable to him by the insurer by reason only of the premature termination of his employment as managing agent under this subsection.

## **PART VIII – RATES, POLICY TERMS AND CLAIMS SETTLEMENT**

### **73. Restrictions on rebates, brokerage, etc.**

(1) No person shall offer, either directly or indirectly, as an inducement to any person to take out or renew or continue a contract of insurance, any rebate of the whole or part of any brokerage, commission or premium except such rebate as may be allowed in accordance with a published prospectus or manual or schedule of rates of an insurer.

(2) No insurer shall, in respect of Kenya business, pay to a broker or agent as brokerage commission, any sum in excess of the amounts prescribed for or in respect of each prescribed class of business placed by that broker or agent with that insurer.

(3) No broker shall, in respect of Kenya business pay to an agent any commission in excess of what would have been payable had the agent been paid by an insurer instead of by the broker.

(4) Nothing in this section shall prohibit a person obtaining the benefit of the commission payable by an insurer to a broker or agent under the relevant prospectus or agent's manual or broker's agreement where he takes out life assurance on his own life or on the lives of his dependants directly with the insurer without the services of an intermediary.

(5) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings.

[Act No. 9 of 2003, s. 12, Act No. 4 of 2004, s. 77.]

**74. Premium rates of life insurers**

(1) An insurer carrying on long term insurance business shall not issue, after the expiry of three months from the appointed date, any policy of insurance unless the rate of premium chargeable under the policy is a rate which has been approved by an actuary as suitable for the class of policies to which that policy belongs and that rate and the actuarial bases therefor together with the actuary's certificate have been filed with the Commissioner at least thirty days before giving effect to the rate.

(2) The Commissioner may require the insurer to obtain, and to furnish him, within such time as he may specify, with a report by an actuary as to the suitability of the rate of premium chargeable under any class of policy issued by the insurer and, if the actuary considers that the rate is not suitable, a report as to the rate of premium which the actuary approves as suitable in respect of that class of policy.

(3) Where a requirement is made under subsection (2) in respect of the rate of premium chargeable under any class of policy the insurer shall not issue, after the expiry of the period specified by the Commissioner, any policy of that class until the insurer has in accordance with the requirement obtained the approval of the actuary to the rate of premium, and notified the Commissioner that that approval has been obtained.

(4) An actuary in approving a rate of premium in respect of a class of policy under this section shall have regard to the maximum rate of commission or rebate proposed to be paid or allowed to any person in respect of that class of policy.

(5) Where a rate of premium is approved by an actuary in respect of a class of policy, the insurer shall not, except with the approval of the Commissioner, pay or allow in respect of any policy of that class a commission or rebate at a greater rate than—

- (a) the maximum rate of commission or rebate to which the actuary had regard when approving the rate of premium; or
- (b) the maximum rate of commission or rebate payable by the insurer immediately prior to the appointed date in respect of policies of that class (if any) issued at the rate of premium so approved,

whichever is less.

(6) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings, and if the offence is a continuing one, to a further fine of two thousand shillings for every day during which the offence continues.

[Act No. 18 of 1986, Sch.]

**75. Premium rates of general insurers**

(1) An insurer carrying on general insurance business shall file with the Commissioner, before commencing to carry on that business or before the expiry of three months from the appointed date, whichever is later, a schedule or manual of rates of premium proposed to be used by the insurer for each class of business.

(2) Where a schedule or manual of rates of premium filed under subsection (1) is proposed to be altered or revised, the insurer shall file with the Commissioner the details of and the reasons for, the alterations or the revised schedule or manual at least sixty days before giving effect to the alterations or revision.

(3) If an insurer carrying on general insurance business issues any insurance cover outside the scope of the schedule or manual of rates of premium filed with the Commissioner or considers it necessary, while using the rate contained in the schedule or manual as the basing point, to deviate therefrom to take account of the proponent's or policyholder's past and anticipated loss experience, the physical characteristics of the subject matter of the insurance, the nature of the exposure and other relevant factors, the insurer shall file with the Commissioner, within a period of thirty days full details of the rate charged.

(4) The Commissioner may, at any time, require an insurer to furnish him with statistical data and other information on the basis of which any rate or schedule or manual of rates filed with the Commissioner has been computed.

(5) The Commissioner may, at any time, require an insurer to modify or revise, within such time as he may specify, the schedule or manual of rates filed with the Commissioner or the practice of deviating therefrom or the practice of rating risks outside the scope of the schedule or manual and the insurer shall carry out the required modification or revision within the stipulated time and get them approved by the Commissioner.

(6) A person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings, and if the offence is a continuing one to a further fine of two thousand shillings for every day during which the offence continues.

#### **76. Law applicable to contracts of insurance and place of payments**

(1) The holder of a policy of insurance issued by an insurer in respect of insurance business carried on by him in Kenya on or after the appointed date shall have the right, notwithstanding any agreement to the contrary contained in the policy of insurance or in any agreement relating thereto, to receive payment of any sum secured thereby in Kenya and to sue for any relief in respect of the policy in Kenya; and if action on the policy is instituted in Kenya, any question of law in connection with the policy or proceedings shall be heard and determined according to the Law in force in Kenya.

(2) Nothing in this section shall apply to a policy of marine insurance.

#### **76A. Insurance cover upon change of ownership of motor vehicle**

Upon change of ownership of a motor vehicle, an insurer shall—

- (a) only issue a temporary cover for a period not exceeding three months, pending the registration of the motor vehicle in the name of the new owner;
- (b) not renew the temporary cover or issue any annual policy in respect of the motor vehicle, unless the new owner provides proof of the registration of the motor vehicle in his name by the Registrar of Motor Vehicles.

[Act No. 8 of 2009, s.48, Act No. 10 of 2010, s. 57.]

**77. Defaults of insurer, broker or agent not to invalidate policy**

Subject to this Act, failure on the part of an insurer, broker or agent to comply with any provision of this Act shall not invalidate any policy issued by an insurer.

**78. Avoidance of contracts for unlimited amounts**

A contract of insurance entered into after the appointed date shall be void if—

- (a) it is a contract under which the insurer undertakes a liability the amount or maximum amount of which is uncertain at the time when the contract is entered into; and
- (b) it is not a contract of insurance or a contract of a class or description exempted by regulations or by the Commissioner in writing from the operation of this section.

**79. Amounts and values in policies to be expressed in Kenya currency**

(1) The sum insured, the premium and every other sum of money mentioned in a policy of insurance issued or renewed on or after the appointed date shall be stated in the currency of Kenya unless the parties to the policy have, at or subsequent to the time of issue of the policy, expressly otherwise agreed to, and where the policy was issued or renewed on or after the appointed date, the Commissioner has in writing approved, the statement of any sum in some other currency:

Provided that, notwithstanding the provisions of this subsection, an insurer may issue a policy of insurance, or a reinsurer may enter into a reinsurance contract in respect of—

- (a) aviation insurance; or
- (b) marine insurance; or
- (c) engineering insurance; or
- (d) any class or classes declared by the Minister by notice in the *Gazette*,

in which the sum insured, the premium and every other sum of money mentioned in the policy of insurance is stated in currencies other than the currency of Kenya.

(2) If the insurer and policy-holder have agreed, and, in the case of a policy issued on or after the appointed date, the Commissioner has approved, that the sum insured, the premium or other sum of money mentioned in a policy of insurance shall be expressed in a currency other than the currency of Kenya, the fact that the parties have agreed and the fact that the approval of the Commissioner has been obtained and the currency adopted shall be stated in or endorsed on the policy in distinct terms and in printed or typed letters no smaller than and as legible as the letters of the other provisions of the policy.

(3) The continued payment in respect of a policy relating to long term insurance business shall not constitute a renewal for the purposes of subsection (1).

[Act No. 12 of 1994, s. 23, Act No. 8 of 1997, s. 56.]

**80. Proposal and policy documents not to be misleading**

(1) A form of proposal for insurance or a policy or an endorsement or any form of written matter used by an insurer describing the terms or conditions of, or the benefits to be or likely to be derived from, a policy of insurance shall not contain anything inaccurate or incomplete or likely to mislead a proponent or policy-holder.

(2) If the Commissioner is of opinion that an insurer has contravened the provisions of subsection (1) he may, after giving the insurer an opportunity of making representations, notify the insurer in writing that he objects to the form.

(3) An insurer shall not accept a proposal or issue any policy or written matter if the proposal, policy or written matter is in a form to which the Commissioner has objected under this section to the extent that the objection has not been varied or set aside as a result of an appeal under section 173.

(4) An insurer who contravenes the provisions of subsection (3) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

**81. Incorrect statements in proposals**

(1) Notwithstanding anything contained in or incorporated in a contract of life assurance issued before, on or after the appointed date, a policy of life assurance shall not be avoided by reason only of an incorrect statement made in a proposal or other document on the faith of which the policy was issued or reinstated by the insurer, unless the statement was material to the risk of the insurer and—

- (a) was made in the knowledge that it was untrue or with no reasonable belief that it was true; or
- (b) was made within the period of three years immediately preceding the date on which the policy is sought to be avoided or the date of the death of the life insured, whichever is the earlier.

(2) Where an agent or servant of an insurer writes or fills in, or has before the appointed date written or filled in, any particulars in a proposal for a policy of insurance with the insurer, then, notwithstanding any law and any agreement to the contrary between the proposer and the insurer, a policy issued in pursuance of the proposal shall not be avoided by reason only of an incorrect or untrue statement contained in the particulars so written or filled in, unless the incorrect or untrue statement was in fact made by the proposer to the agent or servant for the purposes of the proposal; and the burden of proving that the statement was so made shall lie upon the insurer.

**82. Effect of suicide or capital punishment on policy**

A policy of life assurance shall not be avoided merely on the ground that the person whose life is assured died by his own hand or act, sane or insane, or suffered capital punishment, if, upon the true construction of the policy, the insurer has thereby agreed to pay the sum assured in the events that have happened.



**83. Particulars as to age of proposer for life assurance**

A form of proposal shall be framed so as to require a person making a proposal for a policy of life assurance to specify the place and date of birth of the person whose life is proposed to be assured, and the person making the proposal shall supply those particulars to the best of his knowledge and belief.

**84. Notice regarding proof of age**

Where an insurer issues a policy of life assurance which provides that proof of age of the life insured is a condition precedent to the payment of the sum assured, the insurer shall, unless the age of the life assured has already been admitted by it, issue with the policy a printed notice stating that proof of age of the life assured may be required prior to the payment of the sum assured.

**85. Procedure where insurer declines to accept proof of age**

(1) If an insurer declines to accept the proof of age tendered in respect of a policy of life assurance, whether issued before, on, or after the appointed date, the policy-holder may apply to the Commissioner for an order directing the insurer to accept the proof tendered.

(2) On any such application, the Commissioner may, after giving the insurer a reasonable opportunity of being heard, make such order in relation to the application as he thinks just.

(3) An order under this section shall be binding on the insurer and shall be complied with on his part.

**86. Misstatement of age**

(1) A policy of life assurance shall not be avoided by reason only of a misstatement of the age of the life assured.

(2) Where the true age as shown by the proofs is greater than that on which the policy was based, the insurer may vary the sum assured by, and the bonuses (if any) allotted to, the policy so that, as varied, they bear the same proportion to the sum assured by, and the bonuses (if any) allotted to, the policy before variation as the amount of the premiums that have become payable under the policy as issued bears to the amount of the premiums that would become payable if the policy has been based on the true age.

(3) Where the true age, as shown by the proofs, is less than that on which the policy was based, the insurer shall either—

- (a) vary the sum assured by, and the bonuses (if any) allotted to, the policy before variation as the amount of the premiums that have become payable under the policy as issued bears to the amount of the premiums that would have become payable if the policy had been based on the true age; or
- (b) reduce, as from the date of issue of the policy, the premium payable to the amount that would have been payable if the policy had been based on the true age and repay to the policy owner the amount of over-payments of premiums less any amount that has been paid as the cash value of bonuses in excess of the cash value that would have been paid if the policy had been based on the true age.

(4) Notwithstanding subsections (2) and (3), where the correct age is found to be beyond the limits within which the insurer, according to his published prospectus, issues the type of policies in question, the policy shall be void ab initio and the insurer shall refund to the insured all the premiums received on the policy after deducting the commission payments and expenses incurred by him on the policy; but nothing in this subsection shall apply to annuities and other policies where the insured has already received any payment under the policy.

#### **87. Objection to and return of life policy**

(1) If within twenty eight days after the delivery of an industrial life assurance policy or an ordinary life assurance policy, where the sum assured is ten thousand shillings or less, by an insurer to the policy-holder, or, at the place of abode of the policy-holder, to some other person who is an inmate of that place apparently not less than eighteen years of age and by whom any premium in respect of the policy is paid on behalf of the policy-holder, the policy-holder returns the policy to the insurer with an objection in writing to any term or condition of the policy or a statement that he does not require the policy, the insurer shall forthwith refund any premium which has been paid in respect of the policy which shall thereupon be cancelled.

(2) For the purposes of this section, where a policy is sent by post by an insurer to the person to whom it is issued, it shall, unless the contrary is proved, be deemed to have been delivered to him at the time at which it would reach him in the ordinary course of post.

(3) For the purposes of this section, a policy shall be deemed to have been returned with an objection or statement, as the case may be, if the policy and objection or statement are posted for transmission to the insurer by registered post.

#### **88. Paid up policies**

(1) A policy-holder who desires to discontinue further premium payments on a policy of life assurance on which not less than three years' premiums have been paid in cash shall, on application to the insurer, be entitled to receive, in lieu of that policy, a paid up policy for an amount not less than that determined in accordance with the rules.

(2) The paid up policy shall be payable upon the happening of the contingency upon the happening of which the amount assured under the original policy would have been payable.

#### **89. Surrender of policies**

(1) The owner of a policy of life assurance which has been in force for at least three years shall, on application to the insurer, be entitled to surrender the policy and to receive not less than the surrender value of the policy less the amount of any debt owing to the insurer under, or secured by, the policy.

(2) In the application of subsection (1) to a paid up policy which has been issued in lieu of another policy, the period of three years shall be calculated from the date of issue of the original policy.

(3) For the purposes of this section the surrender value of a policy shall be the amount calculated in accordance with the rules.

(4) The Commissioner may, on application by an insurer, if, in his opinion, the payment in cash of surrender values as required by this section would be prejudicial to the financial stability of the insurer or to the interests of the policyholders of that insurer, suspend or vary for such period and subject to such conditions as the Commissioner thinks fit, the obligation of the insurer to pay those surrender values.

#### **90. Non-forfeiture of ordinary life policies in certain cases of non-payment of premiums**

(1) An ordinary life policy shall not be forfeited by reason only of the non-payment of any premium (in this section referred to as “the overdue premium”) if—

- (a) not less than three years’ premiums have been paid in cash on the policy; and
- (b) the surrender value of the policy (calculated as at the day immediately preceding that on which the overdue premium falls due) exceeds the sum of the amount of the debts owing to the insurer under, or secured by, the policy, and the amount of the overdue premium.

(2) The insurer may, until payment of the overdue premium, charge compound interest on it, on terms not less favourable to the policy-holder than such terms (if any) as are prescribed.

(3) The overdue premium and any interest charged on it under this section and unpaid shall, for the purposes of this Act, be deemed to be a debt owing to the insurer under the policy.

(4) Without affecting the generality of subsection (1), an ordinary life policy on which not less than three years’ premiums have been paid in cash shall not be forfeited by reason only of the non-payment of a premium unless, on or after the day on which the premium fell due, the insurer liable under the policy serves a notice on the policy-holder stating—

- (a) the amount due or payable to the insurer at the date of the notice in respect of the policy; and
- (b) that the policy will be forfeited at the expiration of twenty eight days after service of the notice if a sufficient sum is not paid to the insurer in the meantime.

#### **91. Non-forfeiture of industrial policies in certain cases of non-payment of premiums**

(1) An industrial life assurance policy on which less than one year’s premiums have been paid shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than four weeks after it became due.

(2) An industrial life assurance policy on which not less than one year’s premiums have been paid shall not be forfeited by reason only of the non-payment of any premium unless the premium has remained unpaid for not less than eight weeks after it became due.

(3) An industrial life assurance policy on which not less than two years' premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than twelve weeks after it became due.

(4) In the event of an industrial life assurance policy on which not less than three years' premiums have been paid being forfeited by reason of non-payment of any premium, the insurer shall, without requiring any application from the policy-holder, grant a paid up policy for an amount not less than that calculated in accordance with the rules.

(5) The paid up policy shall be payable upon the happening of the contingency upon which the amount insured under the original policy would have been payable.

## **92. Treatment of debts on grant of paid up policies**

Where in pursuance of any provision in this Part a policy-holder is entitled to receive, or an insurer is required to grant, a paid up policy and there is any debt owing to the insurer under or secured by the policy, the insurer may elect—

- (a) to treat the debt so owing as a debt secured by the paid up policy and thereupon the paid up policy shall be a security for the debt so owing; or
- (b) in the ascertainment of the amount of the paid up policy, to reduce the amount by taking into account, upon a basis approved by the Commissioner, the debt so owing to the insurer, and thereupon the debt shall cease to be owing to the insurer.

## **93. Certain policies exempted from operation of sections 88 to 92**

(1) The provisions of sections 88 to 92 (inclusive) shall not apply to—

- (a) an instrument securing the grant of an annuity for a term dependent upon human life, not being a deferred annuity during the period of deferment; or
- (b) a policy which provides insurance against contingencies none of which may happen, not being a policy which provides for the payment of a sum of money if the life insured by the policy survives a specified period.

(1A) Every insurer who provides annuities and other insurance investment products shall publish information regarding such annuities and other products on quarterly basis in the manner specified by the Commissioner.

(2) Subject to subsection (1), the Minister may, on the recommendation of the Commissioner, by notice in the *Gazette*, declare that the provisions of sections 88 to 92 shall apply in respect of any policy or class of policies with such modifications as are declared in the notice, and those provisions shall apply in respect of that policy or class of policies accordingly.

[Act No. 8 of 2008, s. 62.]

## **94. Insurable interest essential for all policies**

(1) Subject to this Act, no policy of insurance shall be issued on the life or lives of any person or persons, or on any other event or events whatsoever,

wherein the person or persons for whose use, benefit, or on whose account such policy or policies shall be made, shall have no insurable interest.

(2) An insurable interest shall be deemed to be had by—

- (a) a parent of a child under eighteen years of age, or a person in loco parentis of such a child, in the life of the child to the extent of funeral expenses which may be incurred by him on the death of the child;
- (b) a husband, in the life of his wife;
- (c) a wife, in the life of her husband;
- (d) any person, in the life of another upon whom he is wholly or in part dependent for support or education;
- (e) a corporation or other person, in the life of an officer or employee thereof; and
- (f) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person.

(3) A child's advancement policy effected either before, on, or after the appointed date shall not be void by reason only that the person effecting the policy had not at the time the policy was effected an insurable interest in the life of the child.

#### **95. Property in child's advancement policy**

(1) The provisions of this section shall apply to every child's advancement policy, whether effected before, on, or after the appointed date.

(2) Where a child whose life is insured under a child's advancement policy has, whether before, on, or after the appointed date, attained the vesting age, the policy shall be deemed to have been, or, as the case may be, shall become, as on and after the date on which the child attained the vesting age, the absolute property of the child both at law and in equity, subject—

- (a) to any debt owing to the insurer under, or secured by, the policy;
- (b) to any dealing done, prior to the attainment by the child of the vesting age, by the owner of the policy; and
- (c) to any dealing done, after the attainment by the child of the vesting age and prior to the appointed date, by the owner of the policy.

(3) On the death or bankruptcy, during the child's life time and before he attains the vesting age, of the person effecting the policy, the executors, administrators, official receiver or trustee in bankruptcy of the person effecting the policy as the case may be (in this subsection referred to as "the representative") shall, subject to any dealings other than testamentary by the person effecting the policy before his death or bankruptcy, hold the policy in trust for the child until he attains the vesting age, or dies before attaining the vesting age, and the representative may assign, mortgage, charge, surrender, vary or otherwise deal with the policy and apply the proceeds as he thinks fit for the maintenance or benefit of the child and the upkeep of the policy, and the insurer issuing the policy shall be under no obligation to see to the application of the proceeds.

(4) Nothing in this section shall invalidate a payment made before the appointed date in respect of a child's advancement policy if the payment, but for this Act, would have been valid.

#### **96. Limitation of amount payable on death of child**

(1) An insurer shall not, by a policy effected on the life of a child, contract to pay on the death of the child under ten years of age a sum of money (apart from repayment of premiums) which, added to any amount payable (apart from repayment of premiums) on the death of the child under ten years of age by any other insurer, exceeds one hundred thousand shillings.

(2) In a policy to which subsection (1) refers there shall be clearly set out that the total sum recoverable as insurance moneys or other benefits from any one or more insurers (apart from repayment of premiums) shall not exceed one thousand shillings.

[Act No. 9 of 2000, s. 91.]

#### **97. Production of prescribed certificate of death**

An insurer shall not pay any sum (apart from repayment of premiums) on the death of a child under ten years of age except upon production of a certificate of death issued in accordance with the provision of the Births and Deaths Registration Act (Cap. 149).

#### **98. Savings as to insurable interest**

Sections 96 and 97 shall not apply to a policy on the life of a child when the person effecting the insurance has an insurable interest, apart from the mere interest under section 94(2)(a), in the life of the child.

#### **99. Protection of insured's interests**

(1) Subject to any written law relating to bankruptcy, the property and interest of a person in a policy effected (whether before, on, or after the appointed date) upon his own life shall not be liable to be applied or made available in payment of his debts by a judgment, order or process of any court.

(2) In the event of a person whose life is insured dying after the appointed date, the moneys payable upon his death under or in respect of a policy effected upon his life shall not, subject to any written law relating to bankruptcy, be liable to be applied or made available in payment of his debts by a judgment, order or process of any court, or by retainer by an executor or administrator, or in any other manner, except by virtue of a contract or charge made by the person whose life is insured or by virtue of an express direction contained in his will or other testamentary instrument executed by him that the moneys arising from the policy shall be so applied.

(3) A direction to pay debts, or a charge of debts upon the whole or any part of the testator's estate, or a trust for the payment of debts, shall not be deemed to be such an express direction.

#### **100. Family insurance policies**

(1) Subject to any written law relating to bankruptcy, a policy effected (whether before, on, or after the appointed date) by a man upon his own life, and

expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by a woman upon her own life and expressed to be for the benefit of her husband or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects named in the policy, and the moneys payable under that policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the person whose life is insured, or be subject to his or her debts.

(2) The person whose life is assured may, by the policy, or by a memorandum under his or her hand, appoint trustees of the moneys payable under the policy, and from time to time appoint new trustees of the moneys and may make provision for the appointment of new trustees of the moneys, and for the investment of the moneys payable under the policy.

(3) Subject to subsection (4), if at any time there is no trustee, the policy shall vest in the person whose life is assured, and his personal representatives, in trust for the purposes referred to in, and subject to, subsection (1).

(4) If at any time there is no trustee and the policy is not vested in any person in pursuance of subsection (3) and it is expedient to appoint trustees or new trustees, trustees or new trustees may be appointed by the court.

(5) The receipt of a trustee, or if there is no trustee or in default of notice to the insurer of the existence of a trustee, the receipt of the person whose life is insured or of his personal representative, or, if the policy has been assigned in pursuance of the power to borrow money conferred by subsection (6), the receipt of the owner for the time being of the policy, shall be a discharge to the insurer for the sum payable under the policy, or for the value of the policy, in whole or in part.

(6) A trustee, or if there is no trustee or in default of notice to the insurer of the existence of a trustee, the person whose life is insured or his personal representative, may vary the terms of the policy in any manner permitted by the insurer, surrender the policy in whole or in part or borrow money upon the policy, and any money obtained by any such variation, surrender or borrowing shall be subject to the same trusts as those upon which the policy was or is held.

(7) Except as expressly provided by this section, nothing in this section shall affect the operation of the law in force in Kenya relating to trustees.

(8) In this section, "children" in relation to a person, includes—

- (a) a person adopted by the first-mentioned person under the Law of Kenya relating to the adoption of children; or
- (b) a person adopted by the first-mentioned person under the Law of any country relating to the adoption of children if the validity of the adoption would be recognised under the Law of Kenya; or
- (c) a step-child of that person.

#### **101. Probate or administration may be dispensed with in certain cases**

(1) Where—

- (a) there is only one policy under which moneys are payable by a particular insurer to the personal representative of a deceased person and those moneys do not, excluding bonus additions, exceed one hundred thousand shillings; or

- (b) there are two or more policies under which moneys are so payable and the aggregate of those moneys does not, excluding bonus additions, exceed five thousand shillings,

the insurer may, without requiring the production of any probate or letters of administration, pay the moneys, together with the bonuses (if any) which have been added to the policy or policies, to a person—

- (i) who is the husband, wife, father, mother, child, brother, sister, nephew or niece of the deceased person; or
- (ii) who satisfies the insurer that he is entitled to the property of the deceased person under his will or under the law relating to the disposition of the property of the deceased person or that he is entitled to obtain probate of the will of the deceased person or to take out letters of administration of his estate.

(2) The insurer making any such payment shall be thereby discharged from all further liability in respect of the moneys payable under the policy or policies.

[Act No. 9 of 2000, s. 92.]

### **102. Death of owner of policy not being life insured**

(1) Subject to this section, where the owner of a policy of life assurance, not being the person whose life is assured by the policy, predeceases the person whose life is so assured, and a person satisfies the insurer that issued the policy that he is entitled—

- (a) under the will or on the intestacy of the deceased owner to the benefit of the policy; or
- (b) to obtain probate of the will, or to take out letters of administration of the estate of the deceased owner,

the insurer may, without requiring the production of probate or letters of administration, endorse on the policy a declaration that that person has so satisfied the insurer and is the owner of the policy, and thereupon that person shall become, subject to subsection (2), the owner of the policy.

(2) Subsection (1) shall not confer on a person declared to be the owner of a policy any beneficial interest in the policy which he would not otherwise have had.

(3) This section shall apply in relation to a policy referred to in subsection (1) whether the deceased owner died before, on, or after the appointed date.

(4) This section shall not apply in relation to—

- (a) a policy the surrender value of which, at the date of the death of the deceased owner, exceeds or exceeded two thousand five hundred shillings; or
- (b) a policy which is one of two or more policies owned by the deceased owner and issued by the same insurer if the aggregate of the surrender values of those policies at the date of the death of the deceased owner exceeds or exceeded two thousand five hundred shillings.



(5) For the purposes of subsection (4), the surrender value of a policy is the amount (including any amount in respect of bonus additions) that would be paid by the insurer issuing the policy upon its surrender.

### **103. Insurer not bound to see to application of payments**

An insurer shall not in any circumstances be bound or concerned to see to the application of any moneys paid by the insurer in respect of any policy.

### **104. Power to pay into court**

(1) An insurer may, subject to any rules of court in that behalf, pay into court any moneys payable by the insurer in respect of a policy for which, in the opinion of the insurer, no sufficient discharge can otherwise be obtained.

(2) The receipt of a Registrar of the court for the moneys shall be a good and valid discharge to the insurer for moneys so paid in, and the moneys shall, subject to the rules of the court, be dealt with according to the order of the Court.

### **105. No deductions in respect of other policies**

Where a claim arising under a policy is paid, no deductions shall, except with the consent in writing of the claimant, be made on account of premiums or debts due to the insurer under any other policy.

### **106. Lost policies**

(1) Where an insured person claims that the policy (in this section referred to as "the original policy") is lost or has been destroyed, the insurer liable under the original policy may, subject to this section, upon application by that person and upon such evidence as to the loss or destruction of the original policy as the insurer deems sufficient, issue to the applicant a special policy in substitution for the original policy.

(2) A special policy shall—

- (a) be a copy, as nearly as can be ascertained, of the original policy in substitution for which it has been issued;
- (b) contain copies of every endorsement on the original policy registered by the insurer; and
- (c) state the reason for the issue of the special policy.

(3) Before issuing a special policy the insurer shall, if the amount insured, exclusive of bonus additions in the case of a policy of long term insurance, exceeds one hundred thousand shillings, give at least one month's notice of his intention so to do in the *Gazette* and in at least one newspaper published and circulating in Kenya.

(4) The expenses of advertisement and all other costs of the issue of a special policy shall be paid by the applicant at the time of application.

(5) The fact of the issue of a special policy and the reason for its issue shall be recorded by the insurer in the register of policies.

(6) A special policy shall be valid and available for all purposes for which the original policy in substitution for which it has been issued would have been valid and available and, after the issue of the special policy, the original policy in substitution for which it has been issued shall be void.

(7) If the insurer fails to issue a special policy within six months of an application in writing from the insured person, the Commissioner may, upon application and upon such evidence as to the loss or destruction of the original policy as the Commissioner deems sufficient, order the insurer, upon such terms and within such time as the Commissioner thinks fit, to issue a special policy.

[Act No. 9 of 2000, s. 93.]

## PART IX – ASSIGNMENTS, MORTGAGES AND NOMINATIONS

### 107. Assignments of policies

(1) Subject to section 110, an assignment of a policy of life assurance made after the appointed date—

- (a) shall be by memorandum of transfer and shall be—
  - (i) endorsed upon the policy, or upon an annexure to the policy that is referred to in, or in an endorsement on, the policy; and
  - (ii) signed by the transferor in the presence of a witness; and
- (b) shall not be recognised by or binding on the insurer until registered in accordance with this section by the insurer liable under the policy.

(2) Every assignment shall be registered in a register to be provided by the insurer for that purpose, and the date of registration shall be inserted in the memorandum of transfer, which shall also be signed by the principal officer of the insurer or a person thereto authorized by him in writing.

(3) The transferee under a duly registered assignment shall have all the powers and be subject to all the liabilities of the transferor under the policy, and may sue in his own name on the policy:

Provided that nothing in this section shall be construed to admit the transferee to membership of an insurer or to deprive the transferor of his membership in respect of a policy, except as provided in the instruments constituting the insurer or in his articles of association or other rules.

(4) The receipt of the transferee shall be a discharge to the insurer for all moneys paid by the insurer under the policy.

(5) Every memorandum of transfer shall, as between the insurer and any person claiming any moneys under the policy, be conclusive evidence for all purposes that the transferee was at the time of registration the absolute owner of the policy free from all trusts, rights, equities and interests (except liens or charges which the insurer has upon the policy), and legally entitled to receive and give a discharge for those moneys.

(6) Any discharge or surrender of or security over the policy given to the insurer by the transferee shall be valid and effectual, notwithstanding the existence of any trust, right, equity or interest of any other person.

(7) The insurer taking the discharge, surrender or security shall not be required or concerned to inquire or ascertain the circumstances in which or the consideration for which the transferee or any previous transferee became a transferee, or, except as provided by section 108, be affected by express, implied or constructive notice of any trust, right, equity or interest.

(8) This section shall not—

- (a) impose on a minor any liability to which he would not, but for this section, be subject;
- (b) confer on a minor any power or capacity which, but for this section, he would not have; or
- (c) validate a receipt or discharge or a surrender of, or security over, a policy given by a minor, if, but for this section, that receipt, discharge, surrender or security would not be valid.

#### **108. Effect of notice of trust**

(1) Notwithstanding anything contained in section 107, an insurer shall not be entitled to any protection under that section or to rely upon any of the provisions of that section if the insurer has not acted in good faith or has received express notice in writing of any trust, right, equity or interest of any person.

(2) In case of the receipt of any such notice the insurer may pay into the Court any moneys payable under the policy, and the receipt of a Registrar of the Court for the moneys shall be a good and valid discharge to the insurer for the moneys so paid in.

(3) The moneys shall be paid out to such person as the Court orders.

#### **109. Assignment of policy to insurer issuing it not to merge rights, etc. under policy**

The rights and liabilities arising under a policy shall not be deemed, either at law or in equity, to be merged or extinguished by reason only of an assignment of the policy, whether at law or in equity, to the insurer that issued the policy.

#### **110. Policies held by trustees**

Where an insurer is satisfied that—

- (a) a policy has been issued or transferred to, or the ownership of a policy is otherwise vested in, persons as trustees; and
- (b) those persons are no longer the trustees for the purposes of the trust,

the insurer may, at the request in writing of the persons claiming to be the trustees for the time being for the purposes of the trust and on the evidence of a statutory declaration by one of those persons verifying the claim, record the names of those persons as the owners of the policy, and thereupon those persons shall become the owners of the policy.

**111. Nomination by policy holder**

(1) The holder of a policy of life assurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Provided that, where the nominee is a minor, the policy-holder may appoint, in the manner prescribed, any person to receive the money secured by the policy in the event of his death during the minority of the nominee.

(2) Any nomination under subsection (1) in order to be effectual, shall either be incorporated in the text of the policy itself or be made by endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy, and the nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in the books of the insurer.

(3) The insurer shall furnish to the policy-holder a written acknowledgement of having registered a nomination or a cancellation or change thereof, and may charge the prescribed fee not exceeding ten shillings, for registering a nomination, or its cancellation or change.

(4) A transfer or assignment of a policy made in accordance with this Act shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of assignment, in consideration of a loan granted by the insurer on the security of the policy within its surrender value, or its reassignment on repayment of the loan, shall not cancel a nomination but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy.

(5) Where the policy matures for payment during the life-time of the person whose life is insured, or where the nominee dies, or if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee survives, or if there are more nominees than one, one or more nominees survive the person whose life is insured, the amount secured by the policy shall be payable to the survivor or survivors, as the case may be.

(7) The provisions of this section shall not apply to a policy to which section 100(1) applies.

**PART X – CLAIMS ON SMALL LIFE POLICIES****112. Claims on small life policies**

(1) In the event of a dispute relating to the settlement of a claim on a policy of life assurance assuring a sum not exceeding one hundred thousand shillings (exclusive of any profit or bonus not being a guaranteed profit or bonus) issued by an insurer in respect of life assurance business transacted in Kenya, arising between a claimant under the policy and the insurer who issued the policy or has

otherwise assumed liability in respect thereof, the dispute may at the option of the claimant be referred to the Commissioner for decision, and the Commissioner may, after giving an opportunity to the parties to be heard and after making such further enquiries as he may think fit, decide the matter.

(2) The decision of the Commissioner under this section shall be final and shall not be called in question in any court, and may be executed by the Court which would have been competent to decide the dispute if it had not been referred to the Commissioner as if it were a decree passed by that court.

(3) There shall be charged and collected in respect of an adjudication under this section such fees whether by way of per centage or otherwise as may be prescribed.

[Act No. 9 of 2000, s. 94.]

## PART XI – TRANSFERS AND AMALGAMATIONS

### 113. Application to amalgamate or transfer

(1) Subject to this Act, where—

- (a) two or more insurers, at least one of whom is registered under this Act, intend to amalgamate; or
- (b) an insurer intends to transfer insurance business of any class to another insurer and at least one of those insurers is registered under this Act,

both the insurers jointly in the former case, and the transferor in the latter case, shall apply to the Authority, for his approval of the amalgamation or transfer, as the case may be.

(2) An application to amalgamate or transfer insurance business shall be accompanied by—

- (a) the draft of the document under which the proposed amalgamation or transfer is to take effect;
- (b) audited accounts and balance sheets of both insurers as on the date of the proposed amalgamation or transfer;
- (c) any other report or document on which the proposed amalgamation or transfer is founded or prepared as at the date of the proposed amalgamation or transfer, as the case may be;
- (d) actuarial reports and abstracts in respect of long term insurance business of both the insurers, such reports and abstracts of the transferor, prepared in conformity with the provisions of section 115, as read with the requirements prescribed in the regulations as at the date of the proposed amalgamation or transfer, as the case may be.

(3) Where the proposed amalgamation or transfer is in respect of long term insurance business, an application under this section shall, in addition to the documents mentioned in subsection (2), be accompanied by a report on the terms of the scheme and likely effects of the scheme on policy-holders of the insurers concerned as a result of the proposed scheme of amalgamation or transfer, prepared by an actuary who has not been professionally connected with

any of the insurers at any time during the five years immediately preceding the application and prepared as at the date of the proposed amalgamation or transfer, as the case may be.

(4) The audited accounts and balance sheets, reports and abstracts referred to in subsections (2) and (3) shall be prepared as at the date at which the amalgamation or transfer is intended to be effected, which date shall not be more than twelve months before the date of the application.

[Act No. 12 of 1987, s. 5, Act No. 12 of 1994, s. 24, Act No. 4 of 2012, s. 35.]

#### **114. Notice**

(1) The Authority shall not determine an application under this Part unless—

- (a) notice of the intention to apply for amalgamation or transfer, approved by the Authority for the purpose, has been published in the *Gazette* and in at least two newspapers published and circulating in Kenya;
- (b) except in so far as he has otherwise directed, a copy of the notice has been sent to every affected policy-holder and every other person who claims an interest in a policy included in the amalgamation or transfer and has given written notice of his claim to one of the insurers involved in the amalgamation or to the transferor, as the case may be; and
- (c) copies of a statement setting out particulars of the amalgamation or transfer, including in the case of long term insurance business the report of the actuary, and approved by the Authority, have been available for inspection at one or more places in Kenya for a period of not less than thirty days beginning with the date of the first publication of the notice in accordance with paragraph (a).

(2) The notice referred to in subsection (1) shall invite any person (including an employee, director, shareholder or policy-holder) who has reasonable grounds for believing that he would be adversely affected by the carrying out of the scheme to write or make oral representations to the Authority within thirty days of the publication of the notice, stating the grounds on which he believes he would be adversely affected by the carrying out of the scheme of amalgamation or transfer.

[Act No. 12 of 1987, s. 11, Act No. 4 of 2012, s. 36.]

#### **115. Conditions for approval in relation to long term insurance business**

(1) The Authority shall not determine an application under this Part which involves or includes a transfer of long term insurance business, unless the scheme involves a transfer of assets relating to the long term insurance business proposed to be transferred in accordance with the provisions of this section.

(2) If the transfer covers all the long term insurance business of the transferor, all the assets representing the statutory fund maintained by the transferor shall, subject to subsection (4), be transferred.

(3) If the transfer applies to a part only of the long term insurance business of the transferor, the approved proportion of the assets representing the statutory fund maintained by the transferor shall, subject to subsection (4), be transferred.

(4) For the purposes of subsections (2) and (3)—

- (a) subject to paragraphs (b) and (c) of this subsection, assets of not less than the actuarial value of the liabilities on all the policies, after making adequate provision for maintenance of bonuses at current levels, and for the reasonable expectations of policy-holders, liabilities being calculated on a proper basis, shall be transferred;
- (b) where the total assets available in terms of subsection (2) or (3) are less in value than the figure arrived at under paragraph (a) of this subsection, the whole of the assets so available shall be transferred, and the Authority shall decide, after taking into account the relevant actuarial considerations, whether any other assets of the insurer shall also be transferred and whether any provisions for reduction of contracts shall be made in the scheme of transfer;
- (c) where the total assets available in terms of subsection (2) or (3) exceed the figure arrived at under paragraph (a) of this subsection, the assets transferred shall be of value equal to the figure arrived at under paragraph (a) plus the following proportions of the excess of the assets in terms of subsection (2) or (3) over the figure arrived at under paragraph (a) namely—
  - (i) if the excess is equal to or less than forty per cent of the figure arrived at under paragraph (a), ninety per cent of such excess; and
  - (ii) if the excess is more than forty per cent of the figure arrived at under paragraph (a), ninety per cent of the portion of the excess amounting to forty per cent of the figure arrived at under paragraph (a) plus fifty per cent of the balance of the excess,

except that where the transferor does not have a share capital, the entire excess of the assets in terms of subsection (2) or (3) over the figure arrived at under paragraph (a) shall be transferred in addition to the assets of value equal to the figure arrived at under paragraph (a).

(5) For the purposes of subsections (2) and (3), the total assets shall include all assets held by the insurer in Kenya which are applicable to, or were built out of, all the long term insurance business carried on in the past irrespective of whether they are shown against long term insurance business and irrespective of whether the business was carried on in the past solely in Kenya or elsewhere.

(6) In determining the “value of the assets” due provision should be made for any possible tax liabilities arising on account of the value placed on the assets or on account of the transfer of the assets.

(7) In this section—

“**proper basis**” means the minimum basis prescribed or the basis applicable in the case of a bonus reserve valuation, allowing provision for the maintenance of bonuses at current levels and for the reasonable expectations of policy-holders in that context, or the basis adopted at the latest preceding valuation, whichever brings out the highest figure of liability;

“**approved proportion**” means the proportion which is approved by the Commissioner as reasonable in the circumstances of the case.

[Act No. 12 of 1987, s. 11, Act No. 20 of 1989, Schedule, Act No. 12 of 1994, s. 24, Act No. 4 of 2012, s. 37.]

#### 116. Further conditions for approval

The Authority shall not approve an amalgamation or transfer on an application under section 113 unless he is satisfied that—

- (a) every policy included in the amalgamation or transfer evidences a contract which—
  - (i) was entered into before the date of the application; and
  - (ii) imposes on the insurer obligations the performance of which will constitute the carrying on of insurance business in Kenya; and
- (b) the amalgamated insurer or transferee, as the case may be, is, or immediately after the approval will be, authorized under this Act to carry on in Kenya insurance business of the appropriate class or classes,

and unless in his opinion the amalgamated insurer’s or transferee’s financial resources and the other circumstances of the case justify the giving of his approval.

[Act No. 12 of 1987, s. 11 Act No. 4 of 2012, s. 38.]

#### 117. Approval or refusal

(1) The Authority may, after considering the documents and reports deposited with him under this Part and the representation, if any, made under section 114(2), subject to such terms and conditions as he considers necessary, approve the scheme of amalgamation or transfer.

(2) On determining an application made under subsection (1) the Authority shall—

- (a) publish a notice of his decision in the *Gazette* and in such other manner as he thinks fit; and
- (b) send a copy of that notice to the parties to the amalgamation or the transferor and the transferee and every person who made representations in accordance with the notice referred to in section 114,

and if he refuses the application he shall inform the parties to the amalgamation or the transferor and the transferee in writing of the reasons for his refusal.

[Act No. 12 of 1987, s. 11, Act No. 4 of 2012, s. 39.]

#### 118. Effect of approval under section 117

(1) Subject to subsection (2), an instrument giving effect to an amalgamation or transfer approved by the Authority under section 117 shall be effectual in law—

- (a) to transfer to the amalgamated insurer or the transferee all the transferor’s right and obligations under the policies included in the instruments; and



- (b) if the instrument so provides, to secure the continuation by or against the amalgamated insurer or the transferee of any legal proceedings by or against either party to the amalgamation or against the transferor which relate to those rights or obligations,

notwithstanding the absence of any agreement or consent which would otherwise be necessary for it to be effectual in law for those purposes.

(2) Except in so far as the Authority may otherwise direct, a policy-holder whose policy is included in such an instrument shall not be bound by it unless he has been given written notice of its execution by either of the insurers involved in the amalgamation or transfer.

(3) Where an amalgamation or transfer has been approved, the amalgamated insurer or the transferee insurer shall within ten days from the date of completion of the amalgamation or transfer deposit with the Commissioner certified copies of—

- (a) statements of his respective assets and liabilities; and  
 (b) the documents under which the amalgamation or transfer was effected.

[Act No. 12 of 1987, s. 11, Act No. 4 of 2012, s. 40.]

## PART XII – INSOLVENCY AND WINDING UP

### 119. Insurer defined for this Part

In this Part “**insurer**” means an insurer carrying on insurance business in Kenya.

### 120. Voluntary liquidation

Notwithstanding anything to the contrary in the Companies Act (Cap. 486), an insurer carrying on long term business shall not be wound up voluntarily.

### 121. Winding up by court

Where a petition for the winding up of an insurer is presented by a person other than the Commissioner, a copy of the petition shall be served on the Commissioner and the Commissioner shall be entitled to be heard on the petition.

### 122. Insolvency

For the purpose of section 219 of the Companies Act (Cap. 486), an insurer shall be deemed to be unable to pay his debts if at any time the requirements of section 41 (which relate to margins of solvency) are not observed by the insurer.

### 123. Petitions for winding up

(1) The Commissioner may, with the prior approval of the Board, unless the insurer is already being wound up by the court, present an application to the court for winding up the insurer in accordance with the Companies Act (Cap. 486) under any of the following circumstances:

- (a) in terms of section 19(5) or 67(3) of this Act;

- (b) in the case of an insurer carrying on long term insurance business as a closed fund within the meaning of that term in section 21, on the grounds that the business has continued as a closed fund for a period of more than five years (excluding any period before the appointed date), that the insurer has failed to implement a scheme approved or framed by the Commissioner under section 10, and that the continuance of the insurer without winding up is detrimental to the interests of the policy-holders;
- (c) on the ground that the insurer is unable to pay his debts within the meaning of section 219 of the Companies Act (Cap. 486);
- (d) on the ground that the insurer, having failed to comply with any requirement of this Act, has continued that failure, or having contravened any provision of this Act, has continued that contravention for a period of six months after notice of failure or contravention has been given to the insurer by the Commissioner;
- (e) on the ground that the insurer is unable to fulfil the reasonable expectations of policy-holders or potential policy-holders;
- (f) on the ground that it is just and equitable in the interests of the policy-holders that the insurer should be wound up;
- (g) on the ground that the insurer has failed to pay tax that is due and outstanding.

(2) The court may, after considering the petition presented by the Commissioner, order the winding up of the insurer if it is of the opinion that there are sufficient grounds and it is just and equitable for the insurer to be wound up.

[Act No. 12 of 1987, s. 6, Act No. 11 of 2006, s. 15.]

#### **124. Secondary companies**

(1) Where the insurance business or any part of the insurance business of an insurer has been transferred to an insurer to which this Act applies under an arrangement in pursuance of which the first-mentioned insurer (in this section called "the secondary company") or the creditors thereof has or have claims against the insurer to which the transfer was made (in this section called "the principal company") then, if the principal company is being wound up by or under the supervision of the court, the court shall, subject to the provision of this section, order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two insurers and make provision for such other matters as may seem to the court necessary, with a view to the insurers being wound up as if they were one insurer.

(2) The commencement of the winding up of the principal company shall, except as otherwise ordered by the court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several insurers between themselves, the court shall have regard to the constitution of the insurers, and to the arrangements entered into between the insurers in the same manner as the court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single insurer or as near thereto as circumstances admit.

(4) Where an insurer alleged to be the secondary company is not in process of being wound up at the same time as the principal company to which the insurer is secondary, the court shall not direct the secondary company to be wound up unless, after hearing any objections that may be urged by or on behalf of the insurer against being wound up, the court is of the opinion that the insurer is secondary to the principal company and that the winding up of the insurer in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of a secondary company in conjunction with a principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where an insurer stands in the relation of a principal company to one insurer, and in the relation of a secondary company to another insurer, or where there are several insurers standing in the relation of secondary companies to one principal company, the court may deal with any number of such companies together or in separate groups, as it thinks most expedient, upon the principles laid down in this section.

#### **125. Insurers being subsidiaries of non-insurers**

(1) Where an insurer is a subsidiary of a company which is not an insurer, and the latter company is wound up under the Companies Act (Cap. 486) or otherwise—

- (a) the subsidiary shall not be wound up except on the basis of a separate application for winding up; and
- (b) where the subsidiary carries on long term insurance business, whether with or without other classes of insurance business, and is ordered to be wound up, all the admitted assets of the statutory funds together with any other assets of the subsidiary which have been included in a separate balance sheet relating to the long term insurance business, and together also with any assets which, though not shown against the statutory funds or in that balance sheet, should in the opinion of the court be equitably related to the long term policy-holders, shall be treated as exclusively reserved for the benefit of the policy-holders of long term insurance business, and those assets shall not be utilized directly or indirectly for any purpose other than for the benefit of the long term insurance policy-holders as long as those policy-holders have not been fully discharged or otherwise provided for.

#### **126. Supplemental provisions as to winding up**

(1) In any proceedings upon a petition to wind up an insurer presented by the Commissioner under section 123(1), evidence that the insurer was insolvent at the close of the period to which the accounts and balance sheet of the insurer last deposited under section 61 relate, or at any date as at which an investigation was last made under section 57 or 58, shall be evidence that the insurer continues to be unable to pay his debts, unless the contrary is proved.

(2) Rules made under section 344 of the Companies Act (Cap. 486) may regulate the procedure and the practice to be followed in proceedings with respect to the winding up of insurers under this Act.

**127. Valuation of assets and liabilities**

- (1) Subject to any directions which may be given by the court—
  - (a) the value of the assets and liabilities shall be ascertained in such manner and upon such basis as the liquidator thinks fit;
  - (b) the liabilities of an insurer in respect of the current policies of long term insurance business shall, as far as practicable, be calculated by the method and upon the basis to be determined by an actuary appointed by the court;
  - (c) the liabilities of an insurer in respect of current policies of general insurance business shall, as far as practicable, be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

(2) The actuary appointed under subsection (1) shall, in the determination of liabilities, take into account any special directions which may be given to him by the court.

**128. Continuation of business of insurer in liquidation**

(1) The liquidator shall, so far as it may be possible and unless the court otherwise orders, carry on the insurance business of an insurer with a view to it being transferred as a going concern to another insurer, whether an existing company or a company formed for the purpose; and, in carrying on that business, the liquidator may agree to the variation of any contracts of insurance in existence when the winding up order is made but shall not effect any new contracts of insurance.

(2) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the insurer attributable to his business require the appointment of a special manager of the business, he may apply to the court, and the court may on the application appoint a special manager of that business to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.

(3) The Court may require the special manager to give such security as it considers necessary.

(4) The Court may make such order as it considers appropriate with regard to the payment of remuneration to the special manager.

(5) The Court may, subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by an insurer in the course of carrying on his business as an alternative to winding up or otherwise.

PART XIII

*Repealed by Act No. 7 of 1997, s. 15.*

**129.** *Repealed by Act No. 7 of 1997, s. 15.*

**130.** *Repealed by Act No. 7 of 1997, s. 15.*

**131.** *Repealed by Act No. 7 of 1997, s. 15.*

**132.** *Repealed by Act No. 7 of 1997, s. 15.*

**133.** *Repealed by Act No. 7 of 1997, s. 15.*

**134.** *Repealed by Act No. 7 of 1997, s. 15.*

**135.** *Repealed by Act No. 7 of 1997, s. 15.*

**136.** *Repealed by Act No. 7 of 1997, s. 15.*

**137.** *Repealed by Act No. 7 of 1997, s. 15.*

**138.** *Repealed by Act No. 7 of 1997, s. 15.*

**139.** *Repealed by Act No. 7 of 1997, s. 15.*

**140.** *Repealed by Act No. 7 of 1997, s. 15.*

**141.** *Repealed by Act No. 7 of 1997, s. 15.*

**142.** *Repealed by Act No. 7 of 1997, s. 15.*

**143.** *Repealed by Act No. 7 of 1997, s. 15.*

**144.** *Repealed by Act No. 7 of 1997, s. 15.*

[Act No. 13 of 1988, Schedule, Act No. 4 of 1993, s. 63.]

## PART XIV – MANDATORY REINSURANCE CESSIONS

**145. Certain business to be ceded to Kenya Reinsurance Corporation**

(1) Subject to this Act, every insurer shall re-insure with the Kenya Reinsurance Corporation Limited such proportion of each policy of insurance issued or renewed in Kenya by the insurer, in such proportion and in such manner and subject to such terms and conditions as are prescribed.

(2) Subject to this Act, every insurer shall also place with the Company, in addition to the reinsurance specified under subsection (1), such proportion of its reinsurance business from Kenya placed in the international reinsurance market, excluding facultative reinsurance, in such proportion and in such manner and subject to such terms and conditions as are prescribed.

[Act No. 7 of 1997, s. 16.]

**146. Power to decline business**

(1) The Company may refuse to accept any reinsurance offered pursuant to this Part, and in that case the Company shall furnish the insurer concerned, if so requested, the reasons for its refusal.

(2) An insurer may, within fourteen days after receiving reasons for refusal under this section, appeal to the Tribunal against the refusal, and thereupon the Tribunal may confirm the refusal or may direct the Company to accept the reinsurance concerned, and any decision of the Tribunal on an appeal shall be final and conclusive.

(3) Where reinsurance is refused under this section any liability of the insurer under this Part in respect of that reinsurance shall cease.

[Act No. 7 of 1997, s. 17.]

**147. Payment**

Payment by insurers to the Company in respect of reinsurance effected under this Part shall be made within such period as the Minister may, by notice in the *Gazette*, prescribe.

[Act No. 5 of 1998, s. 55.]

**148. Returns and information**

An insurer required to effect reinsurance under this Part shall produce or submit to the Company all returns, statements, books, records, accounts or other documents, or true copies thereof, and shall furnish any information, which may be required by the Company for the purposes of this Part.

[Act No. 7 of 1997, s. 18.]

**149. Offences and penalty**

An insurer who—

- (a) fails to effect reinsurance or make any payment as, and in such manner as, is required by or under this Part;

- (b) fails to comply with a requirement of the Company under section 148 within a reasonable time after the making thereof; or
- (c) furnishes information which is false in whole or in part, or produces or submits as true and correct any document or copy thereof which is not true and correct, in purported compliance with any such requirement,

shall be guilty of an offence and liable to a fine.

[Act No. 7 of 1997, s. 19.]

**PART XV – INTERMEDIARIES, RISK MANAGERS, MOTOR ASSESSORS,  
INSURANCE INVESTIGATOR, LOSS ADJUSTERS, INSURANCE  
SURVEYORS MEDICAL, INSURANCE PROVIDER AND CLAIMS  
SETTLING AGENTS**

**150. Only registered brokers, agents, risk managers, motor assessors, insurance investigator, loss adjusters, surveyors, medical insurance provider and claims setting agents to carry on business**

(1) No person shall, after the expiry of three months from the appointed date, commence, transact or carry on in Kenya the business of a broker, agent, risk manager, motor assessor, insurance investigator, loss adjuster, insurance surveyor, medical insurance provider, or claims settling agent unless he is registered under this Act.

(2) No person shall, after the expiry of three months from the appointed date, use the name of broker, agent, risk manager, motor assessor, insurance investigator, loss adjuster, insurance surveyor, medical insurance provider or claims settling agent in a manner to give the impression that he is registered to commence, transact or carry on any such business, unless he is so registered.

(3) Nothing in this Act shall prohibit or otherwise render unlawful the continuance of the business of a risk manager, motor assessor, insurance investigator, loss adjuster, insurance surveyor, medical insurance provider or claims settling agent in Kenya in so far as it is necessary to complete any assignment which was undertaken before the appointed date.

(4) A person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings and, if the offence is a continuing one, to a further fine not exceeding one thousand shilling for every day during which the offence continues.

[Act No. 9 of 2003, s. 13, Act No. 9 of 2007, s. 60.]

**150A. Registration of medical insurance providers**

(1) Every person engaged in the business of placing medical insurance business with an insurer in expectation of payment by way of a commission, fee, or other remuneration shall apply to the Authority for registration as a medical insurance provider under this Act.

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

[Act No. 9 of 2003, s. 14, Act No. 10 of 2010, s. 57.]

**151. Application for registration**

(1) An application for registration under section 150 or renewal of registration under section 188 shall be in the form required by the Commissioner and shall be accompanied by—

- (a) where the application is for registration as a broker, a professional indemnity policy of insurance in such form as may be prescribed and for such amount as may be prescribed whether as a single sum or according to a specific formula;
- (b) where the application is for registration as an agent, a document under the hand of the principal officer of the insurer for whom he proposes to function as an agent certifying that the person has been appointed as an agent by the insurer through an agreement or appointment letter, and that the insurer is satisfied that the applicant has the knowledge and experience necessary to act as an agent;
- (c) a statement of business transacted in the preceding financial year in the prescribed form;
- (d) the prescribed fee;
- (e) such other documents as may be prescribed.

(2) No person shall—

- (a) make a statement in an application, account, written information or document submitted under this section; or
- (b) give to the Commissioner a certificate under subsection (1)(b),

that is false or misleading.

(3) A person who contravenes the provisions of subsection (2) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

**152. Disqualifications**

The Commissioner shall not register or renew the registration of or keep registered any person as a broker, agent, risk manager, loss assessor, loss adjuster, insurance surveyor, medical insurance provider, or claims settling agent if—

- (a) the applicant has been found to be of unsound mind by a court of competent jurisdiction;
- (b) he has within the five years preceding the date of application been convicted of an offence relating to fraud or dishonesty;
- (c) he has at any time within the five years preceding the date of his application become bankrupt, applied to take the benefit of the law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration for their benefit;
- (d) the applicant, being a broker, is a director, employee or holds more than one per cent of the shares or controlling interest in a registered insurer;



- (e) the applicant is a natural person, the applicant, or where the applicant is a corporate person, the principal officer in Kenya of the applicant responsible for the transaction of business—
  - (i) does not, in the opinion of the Commissioner, have sufficient knowledge, skill and experience to satisfactorily discharge his duties and functions; or
  - (ii) has been found guilty of, or warned or cautioned in writing by the Commissioner on at least three separate occasions with regard to, unethical business practices.

[Act No. 12 of 1994, s. 27, Act No. 9 of 2003, s. 15.]

### **153. Registration and re-registration**

- (1) Where the Commissioner is satisfied that—
  - (a) the volume of business which is likely to be available to, and the earning prospects of, an applicant are adequate;
  - (b) the business in respect of which the application is made will be conducted in accordance with accepted professional standards;
  - (c) in the case of a corporate person the financial standing of the applicant is sound;
  - (d) the knowledge, skill and experience of the applicant or, in the case of a corporate person, the knowledge, skill and experience of the principal officer in Kenya, are adequate;
  - (e) in the case of a broker, the professional indemnity policy of insurance is satisfactory;
  - (f) the applicant is not disqualified under this Act;
  - (g) the applicant is, and is likely to continue to be, able to comply with such of the provisions of this Act and regulations and directions made or issued under this Act as are applicable to the applicant;
  - (h) the prescribed fee has been paid;
  - (i) it is otherwise in the public interest that the applicant should be registered,

he may, subject to such terms and conditions as he considers necessary, including in the case of a broker the provision of such bank guarantee as may be prescribed, register or renew the registration of an applicant under this Part.

(2) Subject to subsection (3) and notwithstanding anything to the contrary contained in this Act, no broker shall be registered under this Act unless he is a company incorporated under the Companies Act (Cap. 486) with a paid up capital of not less than one million shillings of which not less than sixty per cent is owned by Kenya citizens or by a partnership whose partners are all citizens of Kenya or by a corporate body whose shares are wholly owned by citizens of Kenya or which is wholly owned by the Government:

Provided that a broker who is not incorporated under the Companies Act on the appointed date may be registered as on that date but his registration shall not be renewed at the time of the next renewal unless he is incorporated under the Companies Act (Cap. 486) at that time.

(3) A broker already carrying on business as an insurance broker on the appointed date without complying with the provisions of subsection (2) relating to paid up capital may be registered as a broker, but at the time of each subsequent renewal of the registration until he complies fully with the requirement his registration shall not be renewed unless he has acquired after the immediately preceding registration or renewal of registration, as the case may be, paid up capital or additional paid up capital equal to not less than one-third of the deficiency which existed on the appointed date.

(4) Subject to subsection (3), a broker already carrying on business as an insurance broker on the appointed date without complying with the minimum shareholding by Kenya citizens as required under subsection (2) shall comply with that requirement before the expiry of three years from the appointed date.

(5) Notwithstanding anything to the contrary contained in this Act, no insurance agent shall be registered under this Act unless—

- (a) if an individual, he is a citizen of the East African Community; or
- (b) if a partnership, all the partners are citizens of the East African Community; or
- (c) if a company incorporated under the Companies Act (Cap. 486), it is wholly owned by citizens of the East African Community.

[Act No. 18 of 1986, Schedule, Act No. 4 of 1999, s. 73, Act No. 10 of 2010, s. 59.]

#### **154. Business by agents**

Subject to the terms and conditions contained in the agreement or appointment letter referred to in section 151(1)(b), an agent may enter into a contract which has the effect of enabling him to solicit or procure insurance business of the same class or sub-class of insurance business or other classes of insurance business for more than one insurer, or to solicit or procure insurance business of the same class or sub-class of insurance business for more than one insurer.

[Act No. 9 of 2003, s. 16, Act No. 11 of 2006, s. 16.]

#### **155. Returns**

(1) Every corporate person registered under this Part shall furnish such audited accounts, statements and returns relating to its business at such time and in such form as may be required by the Commissioner.

(2) If it appears to the Commissioner that any account, statement or return furnished to him under provisions of this Act is inaccurate or incomplete in any respect, he may—

- (a) require further information, which shall be certified, if he so directs, by an auditor or other person, as he may consider necessary; or
- (b) require any document for his examination.

(3) Where—

- (a) a person registered under this Part fails to comply with a requirement made under subsection (2); or

- (b) the Commissioner is not satisfied as to the truth or accuracy of any account, statement or return supplied under subsection (1), or of any further information or document supplied under subsection (2), and has in writing so informed the person registered, giving his reasons,

that person shall be deemed to have failed to comply with subsection (1).

### **156. Advance payment of premiums**

(1) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by him or is guaranteed to be paid by such person in such manner and within such time as may be prescribed, or unless and until a deposit, of a prescribed amount, is made in advance in the prescribed manner.

(2) *Deleted by Act No. 9 of 2007, s. 61.*

(3) No agent shall collect the premium of a policy of insurance canvassed or solicited by him, and no agent shall signify acceptance of the risk on a policy of insurance canvassed or solicited by him, except in so far and to the extent that he has been authorized by an insurer to collect the premium or to issue cover notes, as the case may be; but nothing in this subsection shall prohibit an agent from collecting and transmitting to an insurer a cheque drawn in favour of an insurer.

(4) A premium collected by an agent or a cheque received by him shall be deposited with, or despatched and received by the insurer before the commencement of the insurance cover.

(5) The requirements of this section may be relaxed by regulations in respect of particular categories of the policies.

(6) A broker shall prepare, as at the 31st December of each financial year, a statement in the prescribed form showing the premium due to insurers from the broker for the prescribed durations and shall furnish each statement, duly signed in the prescribed manner, to the Commissioner within two months after the end of the period to which it relates.

(7) *Deleted by Act No. 10 of 2010, s. 60.*

(8) All moneys received by a broker from a client or an insurer shall be deposited in a separate client account in a bank licensed under the Banking Act, which shall be held in trust and under no circumstances be mixed with moneys or working capital belonging to the broker:

Provided that the broker may draw money from the client account for the purposes of remitting premium payments to insurers or payments to insurers or payment of claim money received from an insurer on behalf of his client.

(9) In effecting the premium payments under subsection (8), the broker may deduct the brokerage commission due to him under the specific risks in respect of which the payment is made and shall prepare a statement showing such details with respect to the remittance, as the Commissioner may prescribe.

(10) Any moneys earned by way of interest on sums deposited in a client account under this section shall accrue to the benefit of the broker.

(11) The client account of a broker shall be audited annually by an auditor qualified under section 161 of the Companies Act (Cap. 486), who shall issue a certificate to the Commissioner certifying whether or not the account is managed in accordance with the provisions of this Act.

(12) An auditor's certificate under subsection (11) shall be a mandatory requirement for the renewal of a broker's registration.

(13) If the auditor's certificate under subsection (9) indicates that the client account is not managed in accordance with the provisions of this Act, the Commissioner shall forthwith cancel the registration of the broker.

(14) Where the Commissioner cancels the registration of a broker under subsection (13) he shall cause notice of the cancellation to be published in the *Gazette* without undue delay.

[Act No. 12 of 1994, s. 28, Act No. 8 of 1996, s. 55, Act No. 4 of 1999, s. 74, Act No. 11 of 2006, s. 17, Act 9 of 2007, s. 61, Act No. 10 of 2010, s. 60.]

#### PART XVI

**157** *Repealed by Act No. 11 of 2006, s. 18.*

**158** *Repealed by Act No. 11 of 2006, s. 18.*

**159** *Repealed by Act No. 11 of 2006, s. 18.*

**160** *Repealed by Act No. 11 of 2006, s. 18.*

**161** *Repealed by Act No. 11 of 2006, s. 18.*

**162** *Repealed by Act No. 11 of 2006, s. 18.*

**163.** *Repealed by Act No. 11 of 2006, s. 18.*

#### PART XVII – ADVERTISEMENTS AND STATEMENTS

##### **164. Misleading advertisements, etc. prohibited**

(1) A person who, by an advertisement, statement, promise or forecast which he knows to be misleading, false or deceptive, or by dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of an advertisement, statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to enter into or offer to enter into a contract, transaction or arrangement with a member of the insurance industry relating to insurance business, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

(2) For the purpose of this section, including proceedings under this section, an advertisement, statement, promise or forecast issued by a person on behalf of or to the order of another person shall be treated as an advertisement, statement, forecast or promise issued by that other person.

(3) A person who in the ordinary course of his business issues and advertisement, statement, promise or forecast to the order of another person, being an advertisement, statement, promise or forecast the issue of which by that other person constitutes an offence under subsection (1) shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.

**165. Advertisements relating to capital**

(1) Where an advertisement, notice or other official publication of an insurer or broker to whom this Act applies contains a statement of the amount of the authorized capital of the insurer or broker, the publication shall also contain a statement of the amount of capital which has been subscribed and the amount paid up.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

**166. Issue of shares or debentures by companies**

(1) No person shall publish in respect of an insurer or broker, or in respect of an insurer or broker proposed to be formed, a prospectus, notice, circular, advertisement or other invitation offering to the public for subscription any shares in, or debentures of, the company or proposed company unless the prospectus, notice, circular, advertisement or other invitation is first submitted to and approved by the Commissioner.

(1A) No person shall transfer or dispose of and no person shall acquire more than ten per cent of the paid up share capital or voting rights of an insurer without the prior written approval of the Commissioner; and any such transfer, disposal or acquisition effected in a manner contrary to this subsection shall be null and void *ab initio*.

(2) A person acting as promoter of a proposed insurer or broker shall not accept an office of profit in the insurer or broker or the offer of a pecuniary advantage, other than as provided in the prospectus, notice, circular, advertisement or other invitation.

(3) In this section—

“**debenture**”, in relation to a company, includes debenture stock, bonds, notes and any other document evidencing or acknowledging indebtedness of the company, whether constituting a charge on the property of the company or not;

“**share**”, in relation to a company, means a share in the capital of the company, and includes stock.

(4) A person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

[Act No. 12 of 1994, s. 32.]

**167. Publication of returns**

(1) No person shall publish an account, abstract, report or other document deposited with or required to be deposited with the Commissioner by or under this Act in a form other than that in which it has been furnished to the Commissioner:

Provided that nothing in this subsection shall prevent a person from publishing a true and accurate summary from any such account, abstract, report or other document for the purpose of publicity.

(2) A person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

## PART XVIII – LEGAL PROCEEDINGS AND APPEALS

**168. Protection for officials acts**

(1) No legal proceedings shall be instituted in any court against the Minister or the Board or any person authorized by the Minister or the Board for anything done or intended to be done in good faith under this Act.

(2) No compensation shall be payable to any person for any loss, damage or harm directly or indirectly caused by anything done or intended to be done in good faith by the Minister or the Board or any person authorized by the Minister or the Board under this Act.

[Act No. 11 of 2006, s. 19.]

**169. The Tribunal**

(1) The Minister may, by notice in the *Gazette*, establish a Tribunal for the purpose of hearing appeals under this Act.

(2) The Tribunal shall consist of a chairman and not less than two and not more than four other members who shall be appointed by the Minister and shall hold office for such period and upon such terms and conditions as the Minister may determine.

(3) The quorum for a meeting of the Tribunal shall be the chairman and two other members.

(4) The members of the Tribunal shall be entitled to receive such allowances as the Minister may determine.

(5) The members of the Tribunal shall not be personally liable for any act or default of the Tribunal done or committed in good faith in the course of exercising the powers conferred by this Act.

(6) The Minister may make rules—

- (a) prescribing the manner in which an appeal shall be made to the Tribunal and the fees to be paid in respect of an appeal;
- (b) prescribing the procedure to be adopted by the Tribunal in hearing an appeal and the records to be kept by the Tribunal;
- (c) prescribing the manner in which the Tribunal shall be convened and the places where and the time at which sittings shall be held;
- (d) prescribing a scale of costs which may be awarded by the Tribunal; and
- (e) generally for the better carrying out of the provisions of this Act relating to the Tribunal and appeals thereto.

**170. Powers of Tribunal**

(1) On the hearing of an appeal the Tribunal shall have all the powers of a subordinate court of the first class to summon witnesses, to take evidence upon oath or affirmation and to call for the production of books and other documents.

(2) Where the Tribunal considers it desirable for the purpose of avoiding expense or delay or any other special reason so to do, it may receive evidence by affidavit and administer interrogatories and require the person to whom interrogatories are administered to make a full and true reply to the interrogatories within the time specified by the Tribunal.

(3) In its determination of any matter the Tribunal may take into consideration any evidence which it considers relevant to the subject of an appeal before it, notwithstanding that such evidence would not otherwise be admissible under the law relating to evidence.

(4) The Tribunal shall have power to award the costs of any proceedings before it and to direct that costs shall be taxed in accordance with any scale prescribed.

(5) All summonses, notices or other documents issued under the hand of the Chairman of the Tribunal shall be deemed to be issued by the Tribunal.

(6) Any interested party may be represented before the Tribunal by an advocate or by any other person whom the Tribunal may admit to be heard on behalf of the party.

#### **171. Enforcement of orders for costs**

(1) Where the Tribunal awards costs in any appeal, the Tribunal shall, on application by the person to whom the costs are awarded, issue to him a certificate stating the amount of the costs.

(2) Every certificate issued under subsection (1) may be filed in the court by the person in whose favour the costs have been awarded and, upon being so filed, shall be deemed to be decree of the court and may be executed as such; but an order for costs against the Government shall not be enforced except in the manner provided for by the Government Proceedings Act (Cap. 40).

#### **172. Penalty for disobedience of summons to give evidence etc.**

Any person summoned by the Tribunal to attend and give evidence or to produce any records, books of account, statements, or other documents, or required to answer interrogatories and who, without sufficient cause—

- (a) refuses or fails to attend at the time and place mentioned in the summons served on him;
- (b) refuses or fails to answer, or to answer fully and satisfactorily, to the best of his knowledge and belief all questions lawfully put to him by or with the concurrence of the Tribunal; or
- (c) refuses or fails to produce any records, books of account, statements or other documents which are in his possession or under his control mentioned or referred to in any summons served on him,

shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

#### **173. Appeals from Commissioner's decisions**

(1) A person aggrieved by a decision of the Commissioner under this Act may, within one month from the date on which the decision is intimated to him, appeal to the Tribunal which may, subject to such terms and conditions as it may consider necessary, uphold, reverse, revoke or vary that decision.

(2) Except as provided in this section the decision of the Tribunal on an appeal made to it under subsection (1) shall be final and conclusive.

(3) A person aggrieved by a decision of the Tribunal made under subsection (1) may, if it involves a question of law, within one month from the date on which the decision is intimated to him, appeal therefrom to the court.

(4) A reference in this section to a question of law does not include a reference to a question whether there is sufficient evidence to justify a finding.

(5) The Chief Justice may make rules for regulating the practice and procedure in connection with an appeal under subsection (3) and for the better carrying into effect the provisions of that subsection.

#### **174. Cognisance of offences and restrictions on institution of proceedings**

(1) No court inferior to that of a magistrate's court of the first class shall hear and determine any matter relating to an offence under this Act.

(2) No proceedings for an offence under this Act shall be instituted without the written sanction thereto of the Attorney-General.

(3) Proceedings for an offence under this Act may (without prejudice to any jurisdiction apart from this subsection) be taken against a body corporate at any place at which the body corporate has a place of business, and against any other person at any place at which he has a place of business or is for the time being resident.

#### **175. Criminal liability of directors, etc.**

(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, principal officer, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of that offence unless he proves that he did not know of the commission of the offence and was not reasonably in a position to know of it, or that he took all reasonable steps to prevent the commission of the offence.

(2) A person convicted of an offence under subsection (1) shall be liable to a fine not exceeding one hundred thousand shillings or, in the case of a natural person, to imprisonment for a term not exceeding five years, or to both.

(3) Where a person convicted under this section is a body corporate, then, notwithstanding any other penalty imposed under subsection (2), the conviction shall constitute sufficient grounds for cancellation of its registration and the appointment of a manager under section 67C.

[Act No. 12 of 1994, s. 33.]

#### **176. Criminal proceedings against unincorporated bodies**

(1) Proceedings for an offence alleged to have been committed under this Act by an unincorporated body shall be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents shall have effect as if that body were a corporation.

(2) A fine imposed on an unincorporated body on its conviction of an offence under this Act shall be paid out of the funds of that body.

#### **177. Documents to be received in evidence**

(1) Every document purporting to be certified by the Commissioner to be a document deposited with him under the provisions of this Act, and every document purporting to be similarly certified to be a copy of that document, shall



be deemed to be such a document or copy, as the case may be, and shall be received in evidence as if it were the original document unless some variation between it and the original document is proved.

(2) The Minister may direct any documents deposited with the Commissioner under this Act, or certified copies thereof, to be kept open for inspection, and copies thereof may be procured by any person on payment of such fees as may be prescribed.

(3) Every document purporting to be certified by the Registrar of Companies to be a copy of a document deposited with him under this Act, shall be deemed to be a copy of that document, and shall be received in evidence as if it were the original document, unless some variation between it and the original is proved.

[Act No. 11 of 2006, s. 20.]

### **178. General penalty**

A person who contravenes any provision of this Act or any regulation made thereunder for which no specific penalty is imposed shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

[Act No. 12 of 1994, s. 34.]

## **PART XIX – MINISTER’S POWERS**

### **179. Policy Holders’ Compensation Fund**

(1) The Minister shall, for the protection of policy-holders, establish a Policy Holders’ Compensation Fund, in this section referred to as “the Fund”, to provide compensation to policy-holders of an insurer wound up under section 123(2).

(2) Where a Fund is established under subsection (1), the Minister shall appoint a Board of Trustees, in this section referred to as “the Board”, for the management and administration of the Fund.

(2A) The functions of the Board shall be to—

- (a) provide compensation to the policyholders of an insolvent insurer;
- (b) monitor, in consultation with the Commissioner where necessary, the risk profile of any insurer;
- (c) advise the Minister on the national policy to be followed with regard to matters relating to compensation of policyholders and to implement all government policies relating thereto; and
- (d) perform such other functions as may be conferred on it by this Act or by any other written law.

(2B) The Board shall have all the powers necessary for the proper performance of its functions under this Act, and without prejudice to the generality of the foregoing, shall have power to—

- (a) control, supervise and administer the assets and liabilities of the Fund in such manner and for such purposes as best promote the interests of policyholders;

- (b) employ such persons and engage the services of such consultants as may be necessary, on such terms and conditions for the proper and efficient exercise of its functions;
- (c) enter into association with such other bodies or organizations, within or outside Kenya, as it may consider desirable or appropriate in furtherance of the purposes for which the Fund is established;
- (d) invest any of its surplus funds in securities which for the time being trustees may by law invest in, or in any other securities which the Treasury may, from time to time, approve;
- (e) receive contributions paid by insurers and policyholders, grants provided by Parliament, gifts, donations or endowments on behalf of the Fund and make legitimate disbursements therefrom;
- (f) subject to the provisions of this Act, regulate its own procedure.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable or immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(4) The Board shall comprise—

- (a) a chairman, who shall be a person not connected with any insurer, broker or insurance agency;
- (aa) the Commissioner of Insurance or his designated representative;
- (b) one person nominated by insurers carrying on general business;
- (c) one person nominated by insurers carrying on long term insurance business;
- (d) one person nominated by insurance brokers;
- (e) one person representing interests which the Minister considers should be represented on the Board; and
- (f) one person nominated by persons carrying on the business of assessing losses in insurance;
- (g) the Permanent Secretary to the Treasury or a person deputed by him in writing.

(5) The Minister shall prescribe the qualifications and terms of service of the chairman and members of the Board, including the procedure for their appointment.

(5A) The Minister shall, in consultation with the Board, appoint a Managing Trustee who shall be the chief executive and secretary to the Board, and who shall hold office for such period and on such terms and conditions of service as may, from time to time be determined in writing by the Minister in consultation with the Board.

(6) The Minister may require payment of a monthly contribution to the Fund to be paid by every policy-holder and insurer, in such amount and at such times as the Minister may, in consultation with the Board, prescribe.

(7) A contribution required under subsection (6) shall be remitted to the Board by the insurer, in such manner as may be prescribed.

(8) If an insurer, for any reason, fails to pay its contribution to the Board within the prescribed period, the insurer shall be liable to pay to the Board a penalty interest charge, which shall be prescribed by the Minister in consultation with the Board.

(9) If an insurer fails to pay the prescribed contribution to the Board and any outstanding penalty interest charge—

- (a) the Board shall hold the directors of the insurer who has defaulted in remitting a statutory contribution to be severally and jointly liable for the payment of the outstanding contribution together with the applicable interest; and;
- (b) the liability of the directors shall commence on the expiry of ninety days from the due date of the outstanding statutory contribution.

(10) A contribution paid by an insurer to the Board may be treated as an item of the expenses of management of the insurer for the financial year in which the amount is paid.

(11) The Minister may, in consultation with the Board, make regulations generally for the better carrying out the provisions of this section.

[Act No. 6 of 2005, s. 41, Act No. 11 of 2006, s. 21, Act No. 8 of 2008, s. 63, Act No. 10 of 2010, s. 61.]

#### **179A. Protection from personal liability**

No matter or thing done by a member of the Board, the secretary to the Board, or an officer, employee or agent of the Board shall, if the matter or thing is done *bonafide* for executing the functions, powers, or duties of the Board under this Act, render the member, secretary, officer, employee or agent, or any person acting on their direction personally liable to any action, claim, or demand whatsoever.

[Act No. 10 of 2010, s. 62.]

#### **180. Power to prescribe**

The Minister may prescribe all matters which by this Act are required or permitted to be prescribed, or which are necessary, desirable or convenient to be prescribed, for giving effect to this Act.

#### **181. Power of exemption**

The Minister may, by notice in the *Gazette*, subject to such terms and conditions as he may on the advice of the Board specify, exempt any person from any of the provisions of this Act.

[Act No. 11 of 2006, s. 22.]

PART XX – GENERAL PROVISIONS RELATING TO REGISTRATIONS  
AND CERTIFICATES**182. Interpretation of this Part**

In this Part—

“**applicant**” means a person applying for registration, renewal of registration or alteration of registration under this Act;

“**register**” means a register required to be kept and maintained under section 183;

“**registered person**” means a person registered under this Act as an insurer, reinsurer, broker, agent, insurance surveyor, risk manager, loss assessor, loss adjuster or claims settling agent.

**183. Registers of authorized persons to be kept by Commissioner**

(1) For the purposes of this Act, the Commissioner shall cause to be kept and maintained one or more registers in respect of persons required to be registered thereunder.

(2) Subject to this Act and to any regulations made thereunder, a register shall be kept and maintained in such form and manner as the Commissioner directs.

**184. Notification of registered persons**

The Commissioner shall notify in the *Gazette*, within one year of the appointed date or soon as practicable thereafter, and at intervals of not more than one year thereafter, the names of registered persons and the type of business in respect of which they are registered.

**185. Inspection of registers**

Any person may, on application in accordance with the directions of the Commissioner and on payment of the prescribed fee (if any), inspect a register.

**186. Evidence of matters in register**

A certificate under the hand of the Commissioner certifying as to any matter relating to the contents of a register shall be received in all courts as evidence of the matter certified.

**187. Alteration of registration**

Where a registered person—

- (a) in accordance with this Act ceases to carry on business of the type in respect of which he is registered; or
- (b) being an insurer, gives notice in writing to the Commissioner that he wishes to carry on insurance business of a class not previously undertaken,

the Commissioner may, subject in the case of additional registration to compliance with the provisions relating thereto and to such terms and conditions as he considers necessary—

- (i) cancel the registration, except that, in the case of an insurer, such cancellation shall be made only with the prior approval in writing of the Minister;
- (ii) alter the relevant register;
- (iii) cancel the certificate of registration;
- (iv) alter the certificate of registration;
- (v) issue a new certificate of registration,

as the circumstances require.

[Act No. 12 of 1987, s. 7.]

### **188. Expiry and renewal of registration**

(1) Subject to this Act, the registration of a registered person shall expire on the 31st December of the year of registration:

Provided that where an application for its renewal is made under this section, the registration shall be deemed to continue in force until the application for the renewal is determined and the registration is renewed.

(2) Subject to subsection (3), an application for the renewal of registration for a year shall be made on or before the 30th September of the preceding year in the prescribed form and shall be accompanied by the prescribed fee.

(3) The Commissioner may extend the time for making an application for renewal of registration on payment of such penalty, not exceeding the prescribed fee for registration, as he may require.

[Act No. 9 of 2007, s. 62, Act No. 8 of 2009, s. 49.]

### **189. Issue, display and surrender of certificates**

(1) Upon the registration or renewal of any registration, the Commissioner shall issue a certificate of registration which shall be prominently displayed by the registered person at his principal place of business in Kenya in a part thereof to which the public have access, and a copy thereof shall be similarly displayed at each of the branches of the registered person in Kenya.

(2) The Commissioner may, on payment of the prescribed fee, issue a duplicate certificate to replace a certificate which has been lost, destroyed or damaged or in any case where he considers it necessary.

(3) Upon the cancellation of a registration the person who was registered shall forthwith return his certificate of registration to the Commissioner.

(4) A registered person shall not display a certificate of registration after the cancellation or expiry of the registration in respect of which it is issued.

(5) A person who contravenes the provisions of subsection (3) or (4) shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

**190. Name of registered person**

(1) If the name of a registered person who has been registered is identical to a name by which another registered person has already been registered, or so nearly resembles it as to be likely to deceive, the second registered person shall, if directed in writing to do so by the Commissioner and subject to the Companies Act, change his name within a time to be specified in the direction.

(2) No insurer shall, after the expiry of six months from the appointed date, use, or carry on business under, a name which is likely to mislead the public or to give the impression that the insurer is carrying on any business other than insurance business.

(3) No broker, agent, insurance surveyor, loss assessor, loss adjuster, risk manager or claims settling agent shall, after the expiry of six months from the appointed date, use, or carry on business under, a name which includes the word "insurance" or "assurance" in such a way as to mislead the public or to give the impression that he carries on insurance business.

(4) A person who contravenes the provisions of subsection (2) or (3) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, and where the offence is a continuing one, to a further fine of one hundred shillings for every day during which the offence continues.

**191. Prohibition of other business**

(1) No person shall be registered under this Act as an insurer, reinsurer or broker if he carries on or intends to carry on in Kenya any business other than the business in respect of which he applies for registration.

(2) No person registered under this Act as an insurer, reinsurer or broker shall carry on in Kenya any business other than the business in respect of which he is registered.

(3) For the purposes of this section, an insurer shall not be deemed to be carrying on a business other than that in respect of which he is registered merely by reason of his having a subsidiary which is registered for a class of insurance business for which the insurer is not registered:

Provided that nothing in this subsection shall allow an insurer not registered for long term insurance business to own a subsidiary registered for any class of long term insurance business.

(4) A person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

**192. Further information**

The Commissioner may in writing require an applicant for registration or renewal of registration under this Act to furnish him with such written information as he may require relating to the applicant or his business in respect of which registration or renewal thereof is sought, and the Commissioner shall not proceed with an application until that information has been furnished.

**193. Alteration in particulars furnished**

(1) Whenever any circumstances arise which affect the application or the contents of a document furnished under this Act to the Commissioner with or in

support of or in connection with an application for registration, the applicant or registered person, as the case may be, shall in writing, within seven days of those circumstances arising, furnish full details of the circumstances to the Commissioner.

(2) A person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

#### **194. False or misleading statements**

A person who makes a false or misleading statement in an application for registration or renewal of registration or alteration of registration, or in any document furnished under this Act to the Commissioner with or in support of or in connection with an application for registration or renewal of registration, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

#### **195. Refusal to register**

Where the Board refuses to register an application for registration, renewal or alteration of registration, the Board shall record the reasons for its decision and shall furnish copies thereof to the applicant and the Minister.

[Act No. 12 of 1987, s. 8, Act No. 11 of 2006, s. 23.]

#### **196. Cancellation of registration**

(1) Where a registered person requests, by notice in writing given to the Commissioner, that his registration be cancelled either totally or in respect of any particular part of his business, the Commissioner may, subject to such terms and conditions as he considers necessary, by notice in writing, cancel the registration of the person, either totally or in respect of any particular part of his business.

(2) The Commissioner, after giving a registered person a reasonable opportunity of making representations, may by notice in writing cancel the registration of that person, either totally or in respect of any particular part of his business—

- (a) if the person fails to comply with or acts in contravention of this Act, or any regulation or direction made or issued under this Act;
- (b) in the case of an insurer, if the Commissioner has reason to believe that an amount due by the insurer under a judgment entered in an action in Kenya arising out of a policy of insurance issued by the insurer has remained unpaid for three months after the date of the final adjudication in that action;
- (c) if the Commissioner is satisfied that the business of the person registered is not being conducted in accordance with sound insurance or business principles;
- (d) where, having regard to the financial circumstances of the person registered, the Commissioner is satisfied that the person cannot carry on the business, or a part of the business, for which he is registered, as the case may be, in a satisfactory and efficient manner;

- (e) where, having regard to the nature and quality of the staff of the registered person, including the professional qualifications, knowledge and experience of the staff, the Commissioner is satisfied that the person cannot carry on the business, or a part of the business, for which he is registered, as the case may be, in a satisfactory and efficient manner;
- (f) if the person is in liquidation;
- (g) if the business of the registered person has been transferred to or amalgamated with the business of another person without the approval of the Minister;
- (h) in the case of an insurer, if the business of the insurer is wholly or to an unreasonable extent re-insured with another person;
- (i) where the Commissioner has reason to believe that the person registered has not commenced to carry on insurance business or any class of business in Kenya within the period of twelve months after he was registered;
- (j) where the Minister considers it is otherwise in the public interest and so directs the Commissioner in writing.

(3) A cancellation of registration made by the Commissioner under subsection (2), other than paragraph (f), (g) or (i) thereof, shall take effect thirty days after the date of the notice, and after that time no insurer whose registration has been cancelled shall enter into a new contract of insurance; but all rights and liabilities in respect of contracts of insurance entered into by him before the cancellation takes effect shall, subject to subsection (5), continue as if the cancellation had not taken place.

(4) The Commissioner may, with the prior approval of the Minister, revive a registration which has been cancelled under the provisions of subsection (2), other than paragraph (f), (g) or (i) thereof, if within six months from the date on which cancellation took place the registered person concerned satisfies the Commissioner that he has complied with any requirement of this Act or any subsidiary legislation made thereunder and complies with any further directions given to him by the Commissioner.

(5) Where the registration of an insurer has been cancelled under this section the Commissioner may, with the prior approval of the Minister, after the expiry of six months from the date on which the cancellation took effect, apply to the Court to wind up the insurer unless the registration of that insurer has been revived under subsection (4) or an application for winding up the insurer has already been made to the Court.

(6) Where in any case referred to in subsection (1) the default or circumstances relates to one or more, but not all, of the parts of business carried on by the registered person, the Commissioner may, with the prior approval of the Minister, upon the cancellation of the registration of the person, subject to such terms and conditions as he considers necessary, register the person in respect of any part of the business and issue a new certificate in respect of that class of business.

[Act No. 12 of 1987, s. 9, Act No. 11 of 2006, s. 24.]



**196A. Notification of cancellation of registration**

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 persons whose registration is cancelled under this Act and the type of business in respect of which the cancellation of registration is done.

[Act No. 9 of 2003, s. 17.]

**197. Records to be maintained by registered persons**

(1) A broker or agent registered under this Act shall keep and maintain at his principal place of business in Kenya a record of the name of every client, policy number, premium paid, subject-matter of insurance, the date of the inception of the policy, date of renewal, sum insured and, in respect of claims settled by the broker on behalf of an insurer, the amount and date of claim made, the date on which the claim was paid, the amount paid, and, in the event of a claim being repudiated, the date and reasons for repudiation, and, in the event of partial settlement, the reasons therefor.

(2) An insurer registered under this Act for carrying on general insurance business shall keep record of the name of every policy-holder, policy number, premium paid, subject-matter of insurance, the date of the inception of the policy, date of renewal, sum insured, the amount and date of claim made, the date on which the claim was paid, the amount paid, and, in the event of a claim being repudiated, the date and reasons for repudiation, and, in the event of partial settlement, the reasons therefor.

(3) An insurer registered under this Act for carrying on long term insurance business shall keep and maintain the particulars referred to in subsection (2) and in addition a record of the name of any assignee or other person having an interest in a policy, and the name of every nominee and the dates of assignment or nomination, as the case may be.

(4) A person registered under this Act other than an insurer, broker or agent shall keep and maintain a full record of all services undertaken by him in pursuance of his registration.

(5) Every person registered under the Act shall also keep and maintain such further records of information as may be prescribed.

**PART XXA – THE INSURANCE PREMIUM LEVY****197A. Imposition of Insurance Premium Levy**

(1) Subject to this Act, there shall be charged and collected a levy to be known as the insurance premium levy, which shall be paid by every insurer registered and authorized under this Act to carry on insurance business in Kenya, at such rate and in such manner as the Minister may prescribe.

(2) The Minister may, in consultation with the Board, by Order published in the *Gazette*, prescribe the rates of the levy imposed under subsection (1) in respect of—

- (a) gross direct premiums written by all insurers registered or authorized under this Act to carry on insurance business in Kenya; and

- (b) reinsurance premiums (before deducting commissions, allowances or other payments) paid or credited to reinsurance business outside Kenya by an insurer registered or authorized under this Act to carry on insurance business in Kenya in respect of risks ordinarily in Kenya, except for reinsurance premiums relating to marine, aviation, industrial fire, catastrophe, excess of loss relating to marine, aviation and industrial risks,

and such other category of insurance as the Minister may prescribe upon recommendation of the Authority.

(3) The levy shall be computed as a percentage of the gross direct premiums written by an insurer or reinsurer under subsection (2)(a), or reinsurance premium paid or credited to a reinsurance business outside of Kenya, as the case may be, under subsection (2)(b).

(4) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due.

(5) All moneys received in respect of the levy shall be paid into the Insurance Regulatory Authority Fund.

(6) If a person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order, a sum equal to five per cent of the amount shall be added to the amount due for each month or part thereof during which it remains unpaid.

(7) Any amounts of money which are outstanding on the date prescribed by the order issued under this section shall be a civil debt recoverable summarily by the Authority.

[Act No. 12 of 1987, s. 10, Act No. 9 of 1992, s. 59, Act No. 4 of 1993, s. 63, Act No. 8 of 1997, s. 57, Act No. 4 of 1999, s. 75, Act No. 11 of 2006, s. 25.]

#### PART XXB – INSURANCE TRAINING LEVY

[Act 11 of 2006, s. 26.]

##### **197B. Imposition of Insurance Training Levy**

(1) Subject to this Act, there is imposed a levy to be known as the insurance training levy which shall be charged on policy-holders and collected by the insurer, and which shall be paid in accordance with this section.

(2) The Minister may, in consultation with the Board, by Order published in the *Gazette*, prescribe the rates of levy, which shall be calculated as a percentage of the gross direct premiums written by the insurer in respect of general insurance business.

(3) The levy shall be paid by every insurer who shall, after the end of each calendar month, submit to the Authority a monthly return thereof in the prescribed form, showing the total levy due to him from policy holders for that particular month.

(4) The levy shall become payable at the end of each month in which the premium was received by the insurer and shall be paid not later than the last day of the month immediately succeeding that in which the levy became due.

(5) Where any amount of the levy remains unpaid as specified in subsection (4), a penalty equal to five per cent of the unpaid levy or part thereof shall become due and payable by the insurer concerned.

(6) Any penalty payable under this subsection shall be deemed to be a levy for the purpose of this Part.

(7) All monies realized under this section shall be charged on the gross direct premiums written by every insurer and shall be used by the Insurance Training and Educational Trust which is responsible for the management of the College of Insurance for the purpose of running the affairs of that College.

[Act No. 5 of 1993, s. 2, Act No. 20 of 1989, Act No. 11 of 1992, s. 59, Act No. 4 of 1993, s. 63, Act No. 5 of 1993, s. 2, Act No. 13 of 1995, s. 94, Act No. 8 of 1996, s. 56, Act No. 11 of 2006, s. 26.]

#### **197C. Offences and penalties**

(1) Any insurer who fails to pay any levy or penalty due from him on or before the day upon which the same are payable shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings and, if the offence is a continuing one, to a further fine of one thousand shillings for every day during which the offence continues.

(2) Where an insurer is guilty of an offence under this section, then notwithstanding the imposition of any penalty under section 197C, the commission of that offence shall constitute grounds whereby the Commissioner may apply to the Court under section 123(g) for the winding up of that insurer.

(3) The amount of any levy or penalty payable under this Act shall not be abated by reason only of the conviction of the insurer liable for the payment, or by reason of any payment of a fine imposed by the court on the insurer for an offence under subsection (1).

#### **197D. Examination and production of documents**

(1) The Commissioner may, for the purpose of obtaining full information in respect of the levy liability of any insurer, require the production of such records, books of account, statements and other documents as he may consider necessary for examination and retention for such period as may be reasonable for the purpose.

(2) The Commissioner may require any person to attend at such time and place as may be specified for the purpose of being examined in respect of any matter or transaction appearing to be relevant to the levy liability of any insurer.

[Act No. 12 of 1987, s. 10, Act No. 13 of 1995, s. 94(b).]

#### **197E. Regulations under Part XXA and Part XXB**

The Minister may make regulations, prescribing all matters which are required or permitted under Part XXA and Part XXB to be prescribed, or which in his opinion are necessary, desirable or convenient to be prescribed, for giving full effect to this Part of the Act.

**197F.** *Repealed by Act No. 11 of 2006, s. 26.*

**197G.** *Repealed by Act No. 11 of 2006, s. 26.*

**197H.** *Repealed by Act No. 11 of 2006, s. 26.*

**197I.** *Repealed by Act No. 11 of 2006, s. 26.*

**197J.** *Repealed by Act No. 11 of 2006, s. 26.*

**197K.** *Repealed by Act No. 11 of 2006, s. 26.*

[Act No. 12 of 1987, s. 10.]

## PART XXI – SUPPLEMENTARY PROVISIONS

**198. Service of notice on registered person**

(1) A notice, direction or document issued under this Act may be served by delivering it or by sending it by registered post to the address mentioned in an application for registration under this Act as the principal place of business of that person or, if the Commissioner has been notified of a change of address, to the new address.

(2) A notice, direction or document served by post in accordance with the provisions of subsection (1) shall be deemed to have been served on the date on which it would have been delivered in the ordinary course of post.

**199. Service of notice on policy-holder**

A document which is by this Act required to be sent to a policy-holder may be addressed and sent by post to the person to whom notices in respect of the policy are usually sent, and a document so addressed and sent shall be deemed, unless the contrary is proved, to have been received by the policy-holder in the normal course of transit:

Provided that where a person claiming an interest under a policy has given notice in writing thereof to the insurer, a copy of any such document shall also be sent to that person at the address specified by him in his notice.

**200. Conversion of currency**

Where this Act has effect with respect to an amount or value in relation to a person and in relation to a particular day and that amount or value is in a currency other than Kenya currency, the amount or value shall be converted into Kenya currency at the rate of exchange that is, at the close of business on that day, the telegraphic transfer buying rate of exchange of the principal banker of the person or, if there is no such rate on that day, at the telegraphic transfer buying rate of exchange of the banker at the close of business on the last day on which there was such a rate.

**201. Consent of Commissioner required for insurance**

(1) Subject to this section and notwithstanding the provisions of any other written law or any agreement, on or after the appointed date, no remittance or transfer of any sum of money or securities out of Kenya in excess of the amounts from time to time prescribed by the Central Bank of Kenya, in respect of or by way of premium, reserve value, claim, management expense, profit surplus, investment income, or other payment or sum of money which directly or indirectly arises out of insurance business, shall be made without the prior written approval of the Commissioner.

(2) An application for the approval of the Commissioner under this section shall be in the prescribed form and contain the prescribed particulars.

(3) Approval granted by the Commissioner under this section shall not exempt a bank or any person from compliance with any other law regulating the remittance or transfer of money or securities out of Kenya.

[Act No. 12 of 1994, s. 36.]

**202. Printing of documents**

Where a document is by this Act required to be printed, the Commissioner may permit it to be typewritten, or to be reproduced by any mechanical means approved by him.

**203. Settlement claims**

(1) Where the claimant has submitted all the relevant documents, every insurer shall, in respect of claims arising out of policies of insurance issued by it—

- (a) admit or deny liability;
- (b) determine the amount due;
- (c) establish the identity of the claimant; and
- (d) pay the claim,

within ninety days of the date of the reporting of the claim or where the determination of liability is by a court, within ninety days of such determination:

Provided that if, for any reason, the insurer is unable to pay the claim within the period specified in this subsection, the insurer shall apply to the Commissioner for extension of time, and the Commissioner may grant extension for a period not exceeding thirty days.

(2) Where an assessment of claim has been carried out, a copy of the assessment report shall be made available to the claimant.

(3) Where the amount of a claim which is due under subsection (1) remains unpaid on expiry of the period prescribed in that subsection, or any extension thereof under subsection (1), a penalty equal to five per cent of the unpaid amount shall forthwith become due and payable.

(4) A penalty due under subsection (3) shall be recoverable as though it were a penalty interest charge payable to the Policy Holders' Compensation Fund Board under section 179, and shall be recovered by the Board in accordance with that section.

(5) If an insurer fails to pay the amount of a claim and any penalty thereon due in accordance with this section, the insurer shall be deemed to be unable to pay his debts under section 123 and liable to be wound up in accordance with that section.

[Act No. 11 of 2006, s. 27, Act No. 7 of 2007, Sch., Act No. 8 of 2008, s. 64, Act No. 8 of 2009, s.50.]

**204. Appointment of public prosecutors**

The Attorney-General may, pursuant to the provisions of the Criminal Procedure Code (Cap. 75), appoint public prosecutors for the purposes of cases arising under this Act.

[Act No. 8 of 2008, s. 65.]

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## SCHEDULES

## FIRST SCHEDULE

[S. 3C, Act No. 12 of 1994, s. 38, Act No. 11 of 2006, s. 28,  
Act No. 8 of 2009, s. 51.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF  
THE BOARD**1. Tenure of office**

(1) A member of the Board other than an *ex officio* member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for reappointment one further term of not more than three years.

(2) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms fall at different times.

**2. Vacation of office**

A member other than an *ex officio* member may—

- (a) at any time resign from office by notice in writing to the Minister;
- (b) be removed from office by the Minister if the member—
  - (i) has been absent from three consecutive meetings of the Board without permission from the chairman; or
  - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
  - (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude;
  - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
  - (v) is incapacitated by prolonged physical or mental illness; or
  - (vi) is otherwise unable or unfit to discharge his functions.

**3. Meetings**

(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(3) The quorum for the conduct of the business of the Board shall be five (5) members excluding the Commissioner of Insurance, of whom at least two shall be from amongst the members of the Board appointed under paragraph (g) of section 3B.

(4) The chairman shall preside at every meeting of the Board at which he is present but in his absence, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(5) Unless a unanimous decision is reached a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

(6) Subject to subparagraph (3), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(7) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of any other persons at its meetings and may make standing orders in respect thereof.

#### **4. Disclosure of interest**

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that if the majority of the members present are of the opinion that the experience or expertise of that member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

#### **5. The common seal**

The affixing of the common seal of the Authority shall be authenticated by the signatures of the Chairman and the Commissioner, and any document required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairman and the Commissioner:

Provided that the Board shall, in the absence of either the Chairman or the Commissioner, in any particular matter nominate one member to authenticate the seal of the Board on behalf of either the Chairman or the Commissioner.

#### **6. Contracts and instruments**

Any contract or instrument which, if entered into or executed by a person other than a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorized by the Authority for that purpose.

**7. Minutes**

The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

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**SECOND SCHEDULE**

[Sections 23 and 28]

[L.N. 76/1999, Act No. 12 of 1994, s. 38, L.N. 97/2007, r. 2, L.N. 58/2012.]

**MINIMUM CAPITAL REQUIREMENTS**

1. No person shall be registered as an insurer unless—
  - (a) in the case of an insurer dealing with general insurance business, its paid-up capital is at least three hundred million Kenya shillings;
  - (b) in the case of an insurer dealing with life insurance business, its paid up capital is at least one hundred and fifty million Kenya shillings;
  - (c) in the case of an insurer dealing with composite insurance business, the paid up capital is at least four hundred and fifty million Kenya shillings;
  - (d) in the case of a reinsurer, its paid up capital is at least eight hundred million shillings divided as follows—
    - (i) for long term business, three million shillings;
    - (ii) for general business, five hundred million shillings.

**MINIMUM ASSETS IN KENYA**

No person shall be registered as an insurer unless—

- (a) in the case of an insurer, its admitted assets in Kenya are worth not less than two hundred million Kenya shillings; or
  - (b) in the case of a reinsurer, its admitted assets in Kenya are worth not less than two hundred million shillings.
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**CHAPTER 487**

**INSURANCE ACT**

SUBSIDIARY LEGISLATION

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**INSURANCE REGULATIONS, 1986**

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[Subsidiary]

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**INSURANCE REGULATIONS, 1986**

[L.N. 312/1986, L.N. 52/1987, L.N. 146/1987, L.N. 349/1987, L.N. 542/1988, L.N. 180/1992, L.N. 124/1994, L.N. 189/1994, L.N. 372/1995, L.N. 87/1996, L.N. 169/1998, L.N. 75/1999, L.N. 172/1999, L.N. 108/2002, L.N. 91/2003, L.N. 40/2004, L.N. 65/2006, L.N. 99/2006, L.N. 2/2007, L.N. 135/2007, L.N. 97/2009, L.N. 85/2010, L.N. 154/2010, L.N. 51/2011, L.N. 57/2012.]

## REGULATIONS UNDER SECTION 180

## PART I – PRELIMINARY

**1. Citation**

These Regulations may be cited as the Insurance Regulations, 1986.

**2. Applicability**

These Regulations shall apply to all members of the insurance industry, *mutatis mutandis*, unless otherwise specified.

**3. Interpretation**

(1) In these Regulations—

“**Kenya citizen**” means an individual, being a natural person, who is a citizen of Kenya;

“**Kenya company**” means a company, incorporated under the Companies Act (Cap. 486) whose shares are wholly owned by Kenya citizens;

“**Kenya partnership**” means a partnership whose partners are all Kenya citizens.

(2) For the purposes of these Regulations and the management of the insurance industry the classes and sub-classes of insurance business shall be serialiZed according to the serial numbers specified in these Regulations.

**4. Excluded business**

For the purposes of the definition of “insurance business” in section 2 of the Act the following are declared not to be insurance businesses for the purposes of the Act—

- (a) business undertaken by a person being a carrier, carrier’s agent, forwarding agent, wharfinger, warehouse man or shipping agent, relating only to his liability in respect of goods belonging to another person and in his possession or under his possession or under his control for the purpose of carriage, storage or sale of those goods;
- (b) business undertaken by a person, being an inn-keeper or lodging, house-keeper relating only to his liability in respect of goods belonging to another person and in the possession or under the control of a guest at the inn or lodging house of which the first-mentioned person is the inn-keeper or lodging house-keeper for safe custody.

## PART II – REGISTRATION OF INSURERS

**5. Insurer’s application for registration and renewal of registration**

The application for registration or renewal of registration as an insurer under section 30 of the Act, shall be submitted in Form No. INS. 30–1 in the First Schedule together with all the information required to be submitted in the appendices to that form specified in that Schedule.

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[Subsidiary]

## 6. Registration fees

The fee for registration as an insurer under section 30 shall be—

- (i) in the case of an insurer, one hundred and fifty thousand shillings; and
- (ii) in the case of reinsurer, two hundred and fifty thousand shillings,

and the same fee shall be payable for renewal registration under section 188(2).

[L.N. 189/1994, r. 2.]

## 7. Statements to be submitted under section 30(k) of the Act

For the purpose of section 30(k) of the Act, every insurer shall, at the time of first making application for registration under one or more of the classes of insurance business prescribed under regulations 9 and 10, lodge with the Commissioner the following statements:

- (a) a photocopy of the certificate of incorporation;
- (b) in the case of an insurer who has not transacted insurance business prior to making the application or where authorization is sought to transact a class of business not transacted before, a copy of the feasibility study report carried out in this regard, showing estimates of premium, expenses and claims for each of the first three financial years following the year in which the application is made, separately on a year by year basis and separately for each such year on both optimistic and pessimistic bases and such feasibility study report shall contain the following information—
  - (i) estimates relating to—
    - (A) Premiums both gross and net of reinsurance and broken down between business in Kenya and elsewhere; and
    - (B) claims, after all reinsurance recoveries;
  - (ii) a forecast balance sheet;
  - (iii) estimates relating to the financial resources to cover underwriting liabilities and the margin of solvency;
  - (iv) in the case of long term insurance business, the number of contracts, and the total sums assured or amounts of annuity per annum expected to be issued;
- (c) the sources of business (for example, insurance brokers, agents, own employees or direct selling) and the approximate per centage expected from each source;
- (d) a summary (that is to say a treaty slip) of reinsurance treaties arranged for each class of business containing all the terms and conditions;
- (e) copies or drafts of any agreements with persons (other than employees of the insurer) who will manage the business of the insurer;
- (f) copies or drafts of any standard agreements which the insurer may have with brokers or agents;
- (g) in the case of long term insurance business, a certificate by an actuary, supported by calculations or projections by the actuary, that he considers the financing of the insurer to be sufficient to cover both technical reserves and the required margin of solvency during the first three financial years following the financial year in which application is made;
- (h) in the case of an insurer who has not transacted insurance business prior to making the application or where authorization is sought to transact a class of business not transacted before, the estimated costs of installing the administrative services and organization for securing business, and the financial resources intended to cover those costs;



[Subsidiary]

- (i) accounts, statements and reports laid before the shareholders at the last three annual general meetings or, if less than three annual general meetings have been held, the accounts, statements and reports laid before the annual general meetings which have been held and the minutes of the annual general meetings shall also be lodged;
- (j) in the case of an insurer who was carrying on or transacting long term insurance business immediately prior to the date of commencement of the Act, copies of the last three valuation reports of the actuary.

#### 7A. Deposits for Insurers Registration

For the purposes of section 32 of the Act, deposits required to be kept with the Central Bank of Kenya shall be under lien in favour of the Insurance Regulatory Authority.

[L.N. 97/2009, r. 2.]

### PART III – ADMITTED ASSETS AND ADMITTED LIABILITIES

#### 8. Admitted assets and admitted liabilities

(1) For the purposes of section 41(9) of the Act the value and extent of the assets and liabilities shall be determined in accordance with the provisions of Part A of the Second Schedule.

(2) In the event of any dispute as to the valuation of any asset or liability, the Commissioner may refer the dispute to a panel of three or five persons at least one of whom shall be a member of the Institute of Surveyors of Kenya or an actuary as defined in section 2 of the Act or a person qualified to be appointed an auditor under section 161 of the Companies Act (Cap. 486); and the Commissioner may direct that the costs or any part of the costs of such a dispute settlement process shall be borne by such party or parties as he may specify.

### PART IV – ACCOUNTS, BALANCE SHEETS, AUDIT AND ACTUARIAL INVESTIGATIONS

#### 9. Classes of long term insurance business in respect of which separate accounts to be maintained

(1) An insurer carrying on long term insurance business, shall maintain separate accounts in respect of the following classes of long term insurance business—

##### LONG TERM INSURANCE BUSINESS CLASSES OF BUSINESS

<i>Serial No.</i>	<i>Brief Description of Classes</i>
31	Bond investment business
32	Industrial life assurance business
33	Ordinary life assurance business
34	Superannuation business

(2) For the purposes of these Regulations “**superannuation business**” means life assurance business, being business of, or in relation to, the issuing of or the undertaking of liability under superannuation, group life and permanent health insurance policies—

- (a) that is vested in the trustees of a fund established or maintained by a person, being a fund the terms and conditions applicable to which provide for—
  - (i) the payment of contributions to the fund by that person; and

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**[Subsidiary]**

- (ii) payments being made from the fund, on account of injury, sickness, retirement or death of the employees of that person or of a company in which that person has a controlling interest; or
- (b) that was—
  - (i) effected for the purposes of a superannuation or retirement scheme; or
  - (ii) accepted by the person maintaining such a scheme for the purpose of the scheme.

**10. Classes of general insurance business in respect of which separate accounts to be maintained**

An insurer carrying on general insurance business shall maintain separate accounts in respect of the classes of business listed in Part A of the Third Schedule and defined for the purposes of these Regulations in Part B of that Schedule.

**11. Forms of accounts**

(1) For the purposes of section 54 of the Act, the forms of accounts shall be the following forms set out in Part C of the Third Schedule—

- (a) the general insurance business revenue account, Form No. INS. 54-1;
- (b) the long term insurance business revenue account, Form No. INS. 54-2;
- (c) *deleted by L.N 57/2012, r. 2.*
- (d) the profit and loss account, Form No. INS. 54-4;
- (e) the balance sheet, Form No. INS. 54-5.

(2) The forms shall be prepared in accordance with the directions specified in Part D of the Third Schedule and such other directions as the Commissioner may from time to time in writing issue to members of the insurance industry.

**12. Actuarial abstracts**

For the purposes of section 57(1) of the Act, the actuarial abstracts and statements in respect of long term insurance business shall be prepared in accordance with the provisions of the Fourth Schedule.

**13. Statements of long term insurance business**

For the purposes of section 57(3) of the Act, the statement required of an insurer following an investigation under section 57(1) of the Act shall be prepared in accordance with the provisions of the Fifth Schedule.

**14. Actuarial valuation of liabilities**

For the purposes of section 57(5) of the Act, the value of assets and the amount of liabilities for purposes of an actuarial investigation shall, subject to section 58 of the Act, be determined in accordance with the provisions of the Sixth Schedule.

**15. Minimum basis**

For the purposes of section 58(3) of the Act, the calculation on the minimum basis of the value of liability of a statutory fund in respect of its policies, shall be according to the provisions of the Seventh Schedule.

**16. Actuary's certificate**

For the purposes of section 58(5)(c) of the Act, an actuary's certificate shall be in form set out in the Eighth Schedule.

**17. Annual returns: long term insurance business**

For the purposes of section 59 of the Act, every insurer carrying on long term insurance business shall, within six months after the end of the period to which they relate, lodge with the Commissioner, in respect of every financial year—

- (a) a statement of admitted assets and admitted liabilities in Form INS. 41-1 in the Second Schedule signed by the principal officer and by auditor; and
- (b) the following statements in the forms set out in the Ninth Schedule signed by the principal officer and also by an auditor in the case of those under (i), (ii), (iii), (iv) and (v)—
  - (i) statement of premium income, Form No. INS. 59-14;
  - (ii) statement of incurred claims, Form No. INS. 59-3A;
  - (iii) statement of commission and management expenses, Form No. INS. 59-5;
  - (iv) particulars of inward and outward re-insurance treaties, Form No. INS. 59-6;
  - (v) particulars of brokers, reinsurers and re-insured under inward and outward reinsurance treaties, Form No. INS. 59-7;
  - (vi) particulars of insurance business not covered by any reinsurance arrangement, Form INS. 59-8;
  - (vii) statement of reinsurance premiums on long term business, Form No. INS 59-9A
  - (viii) particulars of inward and outward reinsurance treaties;
  - (ix) statement of commission Form No. INS. 59-10A;
  - (x) statement of long term insurance business, Form No. INS. 59-11;
  - (xi) statement of movement in long term insurance business, Form No. INS. 59-12.

[L.N. 108/2002, r. 2, L.N. 57/2012, r. 3.]

**18. Annual returns: general insurance business**

For the purposes of section 59 of the Act, every insurer carrying on general insurance business shall, within six months after the end of the period to which they relate, lodge with the Commissioner, in respect of every financial year—

- (a) a statement of admitted assets and admitted liabilities in Form INS. 41-1 in the Second Schedule signed by the principal officer and an auditor; and
- (b) the following statements in the forms set out in the Ninth Schedule, signed by the principal officer and also by an auditor in the case of the statements under (i), (ii), (iii), (iv), (v), (vi) and (vii)—
  - (i) statement of premium income, Form No. INS. 59-1B;
  - (ii) statement of incurred claims in respect of incidents occurring in previous years, Form No. INS. 59-2;
  - (iii) statement of incurred claims in respect of incidents occurring in the current year and total incurred claims, Form No. INS. 59-3B;
  - (iv) statement of underwriting balances, Form No. INS. 59-4;
  - (v) statement of commission and management expenses, Form No. INS. 59-5;
  - (vi) particulars of inward and outward reinsurance treaties, Form No. INS. 59-6;
  - (vii) particulars of brokers, reinsurers and re-insured under inward and outward reinsurance treaties, Form No. INS. 59-7;

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- (viii) particulars of insurance business not covered by any reinsurance arrangement, Form No. INS. 59-8;
- (ix) statement of premium, Form No. INS. 59-9B;
- (x) statement of commission, Form No. INS. 59-10B.

[L.N. 108/2002, r. 3, L.N. 57/2012, r. 4.]

**19. Annual returns: supplementary provisions**

(1) The statements required under regulations 17 and 18 shall be submitted separately in respect of Kenya business and outside Kenya business.

(2) In case an insurer does not have any information to submit in respect of any of the classes of business under regulations 17 and 18 the statements required shall be submitted indicating that the insurer has no information to submit.

(3) "Class of business" and "sub-class of business" wherever shown in the statements required to be furnished under regulations 17 and 18 are those specified in regulation 9 in respect of long term insurance business and in Part A of the Third Schedule in respect of general insurance business.

**20. Authentication and certification of accounts and statements**

(1) The copies of the accounts, balance sheets, certificates, abstracts, returns or statements required to be deposited with the Commissioner under section 61(1) of the Act shall, in addition to the signatures required under section 60 of the Act, by the insurer a certificate of authentication signed by the principal officer and the person who prepared the account, balance sheet, certificate, abstract, return or statement in this form:

"CERTIFIED ON THE ....., 20 .....

TO BE AN AUTHENTIC COPY FOR THE PURPOSES OF SECTION 61 OF THE INSURANCE ACT, 1984.

.....

....."

(2) The name of the person signing any statement, document, return, abstract, report, submitted to the Commissioner under the provisions of the Act or these Regulations shall be printed just below the signature and any one signing in the name of a firm shall print his own name and also that of his firm below the signature.

(3) Subject to such conditions as the Commissioner may prescribe, insurance formalities or submission of documents under this regulation may be done through the use of information technology.

[L.N. 85/2010, r. 2, L.N. 57/2012, r. 5.]

**PART V – MANAGEMENT AND EXPENSES**

**21. Management expenses**

(1) For the purposes of section 70(1) of the Act the limits of management expenses shall be as set out in Part A of the Tenth Schedule.

(2) Every insurer shall submit statements in forms Nos. INS. 70-1, INS. 70-2, INS. 70-3, INS. 70-3A, INS. 70-4 set out in part B of the Tenth Schedule as may be applicable, within four months of the period to which they relate, duly certified by the principal officer.

[L.N. 57/2012, r. 6.]

**22. Restriction on commission**

For the purposes of section 73(2) of the Act, the maximum rates of brokerage, commission, payable by an insurer shall be those specified in the Eleventh Schedule in respect of the classes of business specified in that schedule.

[L.N. 108/2002, r. 4.]

## PART VI – POLICY TERMS

**23. Exemption from the provision regarding avoidance of contracts of unlimited amounts**

The following categories of contracts shall be exempt from the operation of section 78 of the Act, namely—

- (a) contracts of insurance covering the liability under the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405);
- (b) contracts of insurance covering the liability of an employer to the employee under common law.

**24. Paid up policies**

For the purposes of section 88(1) of the Act, the rules on paid up policies shall be those specified in the Twelfth Schedule.

**25. Surrender values**

For the purposes of section 89 of the Act, the surrender value of a policy shall be calculated in accordance with the rules set out in the Thirteenth Schedule.

**26. Payment of interest on overdue premiums**

For the purposes of section 90(2) of the Act the prescribed terms shall be terms under which the amount of interest chargeable in respect of an overdue premium would be an amount calculated at a rate of interest not exceeding ten per centum per annum on the overdue premium compounded annually.

**27. Paid up industrial life policies**

For the purposes of section 91(4) of the Act the prescribed rules shall be those set out in the Twelfth Schedule.

**28. Certain policies to which sections 88-92 do not apply**

In accordance with subsection (2) of section 93 of the Act, it is declared that the provisions of sections 88 to 92 (inclusive) of the Act shall apply in respect of each of the classes of policies specified in this regulation, subject to the modifications declared in the paragraph of this regulation in which that class is specified—

- (a) *Family Income Policies and Policies which provide other additional benefits on death within a specified term—*

If a policy provides income or other additional life insurance benefits so that the amount payable (exclusive of bonuses) in the event of death within a specified term dating from the commencement of the policy exceeds the amount payable (exclusive of bonuses) in the event of death or survival after the expiry of the specified term (which latter amount is hereinafter referred to as the basic sum insured), the paid up policy to which the policy owner is entitled shall be payable on the same contingencies as the basic sum insured only, and shall not carry such additional benefits.

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**[Subsidiary]**(b) *Policies which include certain contingent additional benefits—*

If a policy includes provision for a benefit payable in an event other than death or survival, or a benefit payable in the event of death by accident or in the event of a specified sickness only (either or both of which benefits are hereinafter referred to as additional benefits), the paid up policy to which the policy owner shall be entitled shall be calculated in accordance with the rules set out in the Twelfth Schedule; and for the purpose of that calculation the additional benefits shall be ignored, and the paid up policy shall not provide any part of the additional benefits.

(c) *Option Policies—*

If a policy contains provision for the contract thereunder to be varied at the option of the owner of the policy on a specified date or on the happening of a specified event and the policy owner becomes entitled to a paid up policy before that option has been exercised, the paid up policy to which the policy owner shall be entitled shall be that to which he would be entitled if the policy did not include provision for that optional variation.

(d) *Altered Ordinary Life Policies—*

In cases where, since the issue of any ordinary policy, the contract thereunder has been varied at the request of the policy owner in such a manner that either the date upon which the sum insured becomes payable, or the term during which premium payments are to be made, or both, have been altered, the paid up value of the policy shall be calculated according to the rules determined for the purpose by the insurer's actuary.

(e) *Policies providing for endowment insurance payable in instalments depending on survival with level premiums until the last instalment is paid—*

If an endowment insurance policy provides for payment of the sum assured by instalments depending on survival and full sum assured or any unpaid balance at death, premiums being payable at a level rate until the final balance of the sum insured has been paid, the paid up policy value of such a policy shall be calculated according to rule 2 instead of rule 1 of the rules set out in the Twelfth Schedule:

Provided that—

- (i) if, according to the practice of the insurer, on the policy being made paid up, the paid up amount is payable in one lumpsum on death or at maturity instead of instalments as provided in the original contract, this factor shall be allowed for in the calculation of the paid up value of the policy under rule 2 of the Twelfth Schedule; and
- (ii) for the actual calculation of paid up values of policies referred to in this paragraph an insurer may use, with the approval of the Commissioner, working rules framed by the insurer's actuary consistent with the provision of this paragraph.

(f) *Paid up Policies—*

Where a policy has been rendered paid up (whether by the grant of a paid up policy as required by the Insurance Act or otherwise) and a calculation of the surrender value of the policy is subsequently required to be made, the calculation shall be made according to the rules set out in the Thirteenth Schedule, and the amount of the paid up policy of which the present value is to be found in terms of rule 1 of those rules shall be the actual amount of the paid up policy.

## PART VII – NOMINATIONS

**29. Nomination of minors**

For the purposes of the proviso to section 111(1) of the Act, the appointment of a person to receive the money secured by a policy in the event of the death of the holder of a policy during the minority of the nominee shall be in the form set out in the Fourteenth Schedule.

**30. Fee for registering, cancelling or changing a nomination**

An insurer may charge a policy-holder ten shillings for registering a nomination or its cancellation or change pursuant to section 111(3) of the Act.

## PART VIII – CLAIMS ON SMALL LIFE POLICIES

**31. Fee for adjudication**

The fee to be charged and collected for an adjudication under section 112 of the Act shall be two per centum of the sum assured of the policy in dispute or one hundred shillings, whichever is the greater amount.

## PART IX – MANDATORY REINSURANCE CESSIONS

**32. Mandatory cessions**

For the purposes of section 145 of the Act, the proportions of business which shall be ceded to the Corporation by insurers, the manner of cessions and the terms and conditions applicable shall be those set out in the Fifteenth Schedule for the various classes of insurance business specified in that schedule.

**33. Payment of re-insurance cessions**

Payment by insurers to the Corporation in respect of re-insurance effected under Part XIV of the Act shall be made within the periods of payment specified in the Fifteenth Schedule.

## PART X – INTERMEDIARIES, CLAIMS SETTLING AGENTS, INSURANCE SURVEYORS, MEDICAL INSURANCE PROVIDERS, LOSS ADJUSTERS, MOTOR ASSESSORS, INSURANCE INVESTIGATORS AND RISK MANAGERS

**34. Forms of application for registration and renewal of registration of intermediaries, etc.**

(1) The forms set out in the Sixteenth Schedule shall be used by brokers, agents, risk managers, motor assessors, insurance investigators, loss adjusters, insurance surveyors, medical insurance and claims settling agents when applying for registration under the Act and shall be submitted together with the appendices thereto prescribed in that Schedule.

(2) For the purposes of registration and renewal of registration of insurers under sections 31 and 188 of the Act and the registration and renewal of registration of agents, brokers, risk managers, motor assessors, insurance investigators, loss adjusters, insurance surveyors, medical insurance providers and claims settling agents under sections 153 and 188 of the Act the registration certificates to be issued on registration shall be in Forms set out in the Twenty-second Schedule.

[L.N. 52/1987, r. 2, L.N. 57/2012, r. 7, r. 8.]

[Subsidiary]

**35. Policy of professional indemnity for a broker**

For the purposes of section 151(1)(a) of the Act, the policy of professional indemnity insurance to be taken out by a broker or medical insurance provider shall be as prescribed in the Seventeenth Schedule.

[L.N. 57/2012, r. 9.]

**36. Statement of business**

For the purposes of section 151(1)(c), every agent, broker, claims settling agent, insurance surveyor, medical insurance provider, loss adjuster, motor assessor, insurance investigator and risk manager, shall submit a statement of business in the appropriate form prescribed in the Eighteenth Schedule and in accordance with the notes thereto..

[L.N. 57/2012, r. 10.]

**37. Fees payable**

The fees for registration and renewal of registration under sections 151(1)(d) and 188(2) of the Act shall be as follows—

	<i>KSh.</i>
Insurance broker .....	10,000
Risk manager .....	3,000
Motor assessor .....	3,000
Insurance investigator .....	3,000
Loss adjuster .....	3,000
Insurance surveyor .....	3,000
Medical insurance provider.....	10,000
Claims settling agent .....	3,000
Insurance agent .....	1,000
Corporate insurance agent .....	1,000

[L.N. 189/1994, r. 2, L.N. 57/2012, r. 11.]

**38. Other documents**

For the purposes of section 151(1)(e) of the Act, a broker, an insurance provider who is already carrying on business on the appointed date shall, at the time of the application for the first registration under the Act, submit—

- (a) an audited profit and loss account;
- (b) an audited balance sheet;
- (c) a report from an auditor as to whether—
  - (i) proper accounting records have been kept;
  - (ii) proper returns adequate for audit have been received;
  - (iii) the balance sheet and profit and loss accounts are in accordance with the accounting records:

Provided that—

- (i) if the auditor is unable to make a positive opinion in respect of the matters specified in this paragraph he shall state that fact in his report and shall qualify the report if he fails to obtain all the information and explanations which are necessary for the purposes of the audit; and



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- (ii) if the broker carries on any other business, he shall attach a supplementary statement—
  - (A) showing the total revenue of the business divided between revenue directly derived from insurance broking and all other revenue and stating the nature of each type of business carried on;
  - (B) classifying expenditure and grouping it under appropriate headings;
  - (C) showing the total brokerage income contained in the accounts unless this figure is already stated in the accounts.

[L.N. 57/2012, r. 12.]

### 39. Bank guarantee for broker's registration

For the purpose of section 153(1) of the Act the form of guarantee which may be required of a broker by the Authority shall be as set out in Form 153-1 in the Nineteenth Schedule or in the form of a two-year Government bond held by the Authority, and the minimum amount of the guarantee shall be, at the time of first registration of the broker and at the time of subsequent renewals, three million shillings.

Provided that a broker who is registered before the commencement of this provision shall provide the guarantee referred to herein within a period of eighteen months from the date of such commencement.

[L.N. 124/1994, r. 2, L.N. 75/1999, r. 2, L.N. 108/2002, r. 5, L.N. 65/2006, r. 2, L.N. 2/2007, r. 2, L.N. 97/2009, r. 3, L.N. 85/2010, r. 3.]

### 40. Returns by corporate persons under the Act

For the purposes of section 155 of the Act, every corporate person registered under Part XV of the Act, shall furnish to the Commissioner, within four months after the end of the period to which they relate, such audited accounts and statements together with the auditors' report as are required to be prepared as may be prescribed by the Authority, from time to time shall, in addition, furnish, within sixty days from the end of each half year, audited statements showing the total amount of premium due from the broker to all insurers in Kenya remaining outstanding as at 30th June and 31st December of every year in respect of risks placed with the insurers before the respective dates and also separately, in respect of risks placed with the insurers before the respective dates and also separately, in respect of risks placed more than sixty days prior to the respective dates, in Form No. INS. 153-1 in the Nineteenth Schedule.

[L.N. 85/2010, r. 4, L.N. 57/2012, r. 13.]

## PART XI – ADVANCE PAYMENT OF PREMIUM

### 41. Advance payment of premium

For the purposes of section 156(1) of the Act, a risk in respect of a policy may be assumed before the premium payable in respect thereof is received—

- (a) if the entire amount of premium is guaranteed to be paid by a bank licensed under the Banking Act (Cap. 488);
- (b) if an advance deposit is made with the insurer to the credit of the insured sufficient to cover the payment of the entire amount of the premium together with the premium, if any, due from the insured in respect of any other risk already assumed against such deposit, such deposit being agreed to be adjusted towards the premium.

[L.N. 91/2003, r. 2.]

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[Subsidiary]

#### 42. Despatch of premium

For the purposes of section 156(4) of the Act, the premium collected by an agent or a cheque received by him shall be deposited with or despatched to the insurer immediately upon the receipt thereof.

[L.N. 91/2003, r. 3.]

#### 43. Relaxations

For the purposes of section 156(5) of the Act, in respect of the categories of insurance policies mentioned hereunder the provisions of subsection (1) of section 156 of the Act and regulation 41 shall stand relaxed to the extent and in the manner mentioned in respect of each category of policy, subject to the conditions mentioned therein—

- (a) *Policies under Sickness Insurance Scheme—*

Premiums on such policies may be accepted in instalments provided that the instalment covering a particular period shall be received on or before the date of commencement of the period.
- (b) *Declaration Policies—*

Risks in respect of such policies may be insured if at least the premium calculated on 75 per centum of the sum insured has been received before assumption of the risk.
- (c) *Policies issued on the basis of adjustable premiums—*

Risk in respect of policies issued on the basis of adjustable premium such as workmen's compensation, cash in transit, and others, may be assumed on receipt of provisional premiums based on a fair estimate.
- (d) *Annual insurances connected with aircraft hulls and marine hulls—*

Facilities for delayed payment of premium on such policies, or the payment of premiums by means of instalments not exceeding four in number and on the basis of an approved clause, may be allowed at the discretion of the insurer, provided that such clause is endorsed on the policy.
- (e) *Short period covers in respect of insurance connected with aircraft hulls and marine hulls—*

Short period covers may be granted on such risks on a held covered basis, subject to the condition that the premium or additional premium in respect of risks assumed in a calendar month shall be paid by the end of the next calendar month.
- (f) *Policies issued for long term—*

In the case of policies issued for long term, such as contract performance bonds or guarantees, contractors' all risks policies, machinery erection policies and the like, the premium may be staggered as necessary according to custom, over the period of the cover, provided that the first instalment is higher than any other instalment by at least five *per centum* of the total premiums payable and each instalment is paid in advance, but where the premium is payable by declaration, it may be paid within fifteen days from the effective date of such declaration.
- (g) *Schedule and Consequential Loss Policies—*

In such cases a provisional amount towards the premium shall be collected before the date of inception or renewal of risk on the basis of the previous year's premium.

- (h) *Marine Covers other than hulls—*
- (i) In the case of inland shipments and transit risks, risk may be assumed under open policies in respect of seasonal crops such as tea, on the payment of a provisional premium based on a fair estimate.
  - (ii) In the case of exports overseas, risk may be assumed subject to the condition that the premium shall be paid within fifteen days from the date of sailing of the overseas vessel;
  - (iii) In the case of imports, risk may be assumed subject to the condition that the premium shall be paid within fifteen days of the receipt of declaration in Kenya from the insurer's or insured's representative overseas:  
 Provided that the relaxations under subparagraphs (ii) and (iii) shall apply to marine cover notes only and not to marine policies.
- (i) *Policies relating to co-insurances—*
- The premiums shall be deemed to have been duly paid if paid on the full insurance to any one of the co-insurers.
- (j) *Policies of reinsurance—*
- Risks may be assumed without payment of premium in advance in insurances accepted under automatic re-insurance contracts.

#### PART XII – GENERAL PROVISIONS

##### 44. Folio copies

For the purposes of section 177(2) of the Act the fee per page of a document deposited with the Commissioner copied and furnished shall be two shillings.

##### 45. Inspection fees

The fee for inspection of a register under section 185 of the Act shall be ten shillings.

##### 46. Fees for duplicate certificates

The fee for a duplicate certificate under section 189(2) of the Act shall be five hundred shillings.

#### PART XIII – SUPPLEMENTARY PROVISIONS

##### 47. Application for remittance

An application for the Commissioner's approval under section 201 of the Act to remit money or securities out of Kenya shall be made in Form No. INS. 201-1 in the Twentieth Schedule and every insurer shall also furnish to the Commissioner a statement in respect of re-insurance business ceded abroad and re-insurance in Form No. INS. 201-2 in the Twentieth Schedule showing, separately business accepted from abroad and also separately in respect of long term insurance business re-insurance and general insurance business re-insurances, the total amount (in equivalent Kenya shillings remitted abroad and the total amount of recoveries (in equivalent Kenya shillings) made from foreign reinsurers and insurers during each of the quarters ending on the last day of March, June, September and December within one month from the close of the quarter to which it relates; and every such statement shall be signed by the principal officer of the insurer.

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[Subsidiary]

**48. Claims**

For the purposes of section 203 of the Act, an insurer shall furnish the following statements to the Commissioner duly certified by the principal officer—

- (i) a statement in Form No. INS. 203–1A in the Twenty-First Schedule in respect of the long term insurance business within three months after the end of the period to which it relates; and
- (ii) a statement in Form No. INS. 203–1B in the Twenty-First Schedule in respect of the general insurance business within three months after the end of the period to which it relates; and
- (iii) a statement in Form No. INS. 203–2 in the Twenty-First Schedule in respect of the long term and general insurance business within 15 days after the end of the period to which it relates.

**49. Manner of payment of fees**

The fees payable by the members of the insurance industry for registration or renewal of registration under the Act and the Regulations shall be paid to “The Insurance Regulatory Authority”.

[L.N. 97/2009, r. 4, L.N. 85/2010, r. 5.]

**50. Specified investments**

A reference in these Regulations to a Schedule shall be a reference to the particular Schedule set out in the “Schedules to the Insurance Regulations, 1986” published by the Government Printer, which Schedules shall be construed as one with these Regulations.

[L.N. 312/1986.]

**51. Monthly insurance training levy return**

For the purposes of section 197A (2), the rates of Levy shall be—

- (a) in case of gross direct premiums written by such insurers, one per cent (1%); and
- (b) in case of reinsurance premiums paid or credited to a reinsurer outside of Kenya, five per cent (5%).

[L.N. 146/1987, r. 2, Corr. No. 43/1987, L.N. 180/1992, r. 2, L.N. 124/1994, r. 3, L.N. 135/2007, s. 2, L.N. 97/2009, r. 5.]

**52. Monthly premium tax return**

For purposes of section 197A(4), the levies payable under regulation 51 shall—

- (a) become payable at the end of each calendar month in case of the gross direct premiums;
- (b) become payable at the end of each quarter in case of the reinsurance premiums,

in which the premiums were received or paid by the insurer and shall be payable by such insurer not later than the last day of the first month succeeding that in which the levies become due.

[L.N. 180/1992, r. 2, L.N. 124/1994, r. 3, L.N. 135/2007, r. 2.]

**53. Annual premium tax return**

For purposes of section 197E every insurer registered or authorized to carry on insurance business in Kenya shall—

- (a) at the end of each calendar month, prepare a monthly premium levy return, showing the total premiums due from the insurer for that particular month as set out in the Twenty Fourth Schedule;

[Subsidiary]

- (b) at the end of each quarter, prepare a quarterly reinsurance levy return, showing the total insurance premiums due from the insurer for that particular quarter as set out in the Twenty Seventh Schedule; and
- (c) at the end of each calendar year and not later than the third month following the end of that year, prepare—
  - (i) an annual premium levy return as set out in the Twenty Fifth Schedule; and
  - (ii) an annual reinsurance premium levy return as set out in the Twenty Eighth Schedule.

[L.N. 180/1992, r. 2, L.N. 124/1994, r. 3, L.N. 135/2007, r. 2.]

#### **54. Monthly re-insurance premium tax return**

For the purposes of section 197B (2), the rates of the levy shall be calculated at the rate of zero point two per cent (0.2%) of the gross direct premiums written by the insurer in respect of general insurance business.

[L.N. 124/1994, r. 4, L.N. 135/2007, r. 2.]

#### **55. Annual premium tax return**

For the purposes of section 197B (3), the form set out in the Twenty Third Schedule shall be in the form for the monthly insurance training levy return.

[L.N. 124/1994, r. 4, L.N. 135/2007, r. 2.]

**56.** For the purposes of section 197E, an insurer carrying on general business in Kenya shall, at the end of each calendar year and not later than the third month following that year, prepare an annual insurance training levy return as set out in the Twenty Ninth Schedule.

[L.N. 135/2007, r. 3.]

**57.** For the purposes of section 197E, the levy payable under section 197B shall be paid to the Insurance Training and Education Trust in such manner as may be prescribed by the Authority from time to time.

[L.N. 135/2007, r. 3, L.N. 57/2012, r. 14.]

**58.** For the purposes of section 4(2), all monies payable into the Fund shall be paid to the Insurance Regulatory Authority in such manner as may be prescribed by the Authority from time to time.

[L.N. 135/2007, r. 3, L.N. 57/2012, r. 15.]



[Subsidiary]

FIRST SCHEDULE, FORM INS. 30-1—continued

Please complete the forms in the above-mentioned Appendices.

6. **Bankers:** *Name* *Address* *Since when*
7. (i) Does the applicant or a director or an employee of the applicant directly or indirectly hold shares in or have any other financial or controlling interest in the affairs of another insurer or any agent, broker or other member of the insurance industry? If so, give details specifying name of the member, nature and extent of shareholding/interest in Appendices A and B.
- (ii) Is any of the individuals or firms listed in Appendices D and E—  
 (a) a director or employee of the applicant or a related company?  
 (b) holding any shares in, debentures of, or other interests with the applicant or a related company?
8. Share Capital

A. AUTHORIZED CAPITAL

Type of Shares (1)	Number of Shares (2)	Amount per Share (3)	Total Amount (4)
(a) .....			
(b) .....			
(c) .....			
(d) .....			
TOTAL .....			

B. PAID-UP CAPITAL

Type of Shares	Number of Shares (2)	Amount per Share Sh. (3)	Total Amount (2)×(3)	Total Number of share-holders (5)	HOLDING BY KENYA CITIZENS, BY KENYA COMPANIES, BY KENYA PARTNERSHIPS, BY THE GOVERNMENT	
					Total Number of Shares (6)	Percentage of Total Shareholding Voting rights (8)
(1)						
(a) .....						
(b) .....						

[Subsidiary]

FIRST SCHEDULE, FORM INS. 30-1—continued

Type of Shares	Number of Shares	Amount per Share Sh.	Total Amount (2) x (3)	Total Number of share-holders	HOLDING BY KENYA CITIZENS, BY KENYA COMPANIES, BY KENYA PARTNERSHIPS, BY THE GOVERNMENT		
					Total Number of Shares	Total Amount	Percentage of Total Shareholding Voting rights
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
(c) .....							
(d) .....							
TOTAL .....							

9. In case the applicant does not have only ordinary shares of a uniform paid-up value as required under section 25 of the Act, describe the steps being taken to comply with the said requirement.

10. Deposit under section 32 of the Act.  
 Amount of deposit made: Sh.  
 Central Bank of Kenya's

Receipt No.(s)..... Date(s) .....

11. Business Particulars

A. Business Carried on/Proposed to be carried on

- (i) Classes of long-term insurance business:  
 (Please refer to regulation 9)
- (ii) Classes of general insurance business:  
 (Please refer to regulation 10)
- (iii) Other business .....

B. Number of agents (employed or expected to be employed in the next 12 months):

Long-term insurance .....

General insurance .....

Total .....



[Subsidiary]

FIRST SCHEDULE, FORM INS. 30-1—continued

C. Is assistance being taken or proposed to be taken from a broker or agent or any other agency in respect of underwriting, claims handling, reinsurance, etc. If so, please give details as under:

- (a) Name:
- (b) Work handled:
- (c) Reasons why outside agency is employed:
- (d) When is the work proposed to be handled by the applicant in his office:

12. Actuarial Valuation:

Date of the last valuation:

Date of submission of the report to the Commissioner:

13. Annual Accounts:

Date up to which accounts made up:

Date of submission of the accounts to the Commissioner:

Date of last Annual meeting of shareholders:

Date of submission of minutes of the above meeting to the Commissioner:

14. Valuation of assets by a member of the Institute of Surveyors of Kenya:

Date of valuation:

Has a copy of the report been submitted? If so, date of submission:

I hereby certify that the statements contained herein and in the documents submitted herewith required by section 30 or 188(2) of the Insurance Act, and the Insurance Regulations, are true and accurate to the best of my knowledge and belief. Any alterations in particulars stated herein or in the said documents will be promptly communicated to the Commissioner of Insurance.

I hereby declare that the company does not and does not intend to carry on any business other than insurance business for which it is seeking registration.

Signed on this ..... day of ....., 20 .....

.....  
Principal Officer

Insurance

[Subsidiary]

FIRST SCHEDULE—continued  
 APPENDIX A TO FORM INS. 30-1  
 PARTICULARS OF BOARD OF DIRECTORS

Name of Insurer: ..... As at 31st December, 20.....

Serial Number	Full Name	Citizenship	Residential Address	Occupation	Date of Appointment	Number of Shares Held (See Note 1 Below)	COURT CONVICTION (See NOTE 2 BELOW)			INTEREST IN ANY MEMBER OF INSURANCE INDUSTRY (See Item 7(i) OF FORM No. INS. 30-1)		
							(a)	(b)	(c)	Nature of Business	Name	Details of Interest
1. ....												
2. ....												
3. ....												
4. ....												
5. ....												
6. ....												

Date: .....  
*Principal Officer*

- NOTES:
1. If the shareholding consists of two or more types of shares, details should be given separately of the type, number and total paid-up values of each type of shares. If additional shares are held in the names of any relatives (who are not directors themselves) of the director, particulars of the same should be given separately.
  2. Has there been in the past—
    - (a) Any conviction of an offence involving fraud or dishonesty?
    - (b) Any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors for?
    - (c) Finding to be of unsound mind by a court of competent jurisdiction? Please state "Yes" or "No" in the above form and if the answer is "Yes", give full details separately.
  3. If the space herein is insufficient, please use additional paper

[Subsidiary]

FIRST SCHEDULE—continued  
 APPENDIX B TO FORM INS. 30-1  
 PARTICULARS OF MANAGEMENT STAFF

Name of Insurer: ..... As at 31st December, 20.....

Serial Number	Full Name	Designation	Citizenship	Age	Residential Address	QUALIFICATION		Years of Experience	Date of Appointment	Number of Shares held (See Note 1 below)	COURT CONVICTION (See Note 2 below)			INTEREST IN ANY MEMBER OF INSURANCE INDUSTRY (See Item 7(i) OF FORM No. INS. 30-1)	
						Academic	Professional				(a)	(b)	(c)	Nature of Business	Name
1. ....															
2. ....															
3. ....															
4. ....															
5. ....															
6. ....															
7. ....															
8. ....															

Date: .....

Principal Officer

NOTES: 1. If the shareholding consists of two or more types of shares, details should be given separately of the type, number and total paid up values of each type of shares. If additional shares are held in the names of any relatives (who are not members of management staff themselves) of the members of management staff particulars of the same should be given separately.

Insurance

[Subsidiary]

FIRST SCHEDULE, APPENDIX B—continued

2. Has there been in the past:
- (a) Any conviction of an offence involving fraud or dishonesty?
  - (b) Any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors?
  - (c) Finding to be of unsound mind by a court of competent jurisdiction? Please state "Yes" or "No" in the above form and if the answer is "Yes" give details separately.
3. If the space herein is insufficient, please use additional paper.

APPENDIX C TO FORM INS. 30-1  
PARTICULARS OF DEPARTMENTAL STAFF

Name of Insurer: ..... As at 31st December, 20

Department	NUMBERS OF STAFF						Numbers of staff who are not Kenya Citizens (Please See Note 2 below)
	Officers	Clerks	Stenographers/Typists	Messengers	Others	Total	
Underwriting .....							
Claims .....							
Administration .....							
Accounts .....							
Others .....							
(Please Specify) .....							
TOTAL .....							

Date: ..... Principal Officer

FIRST SCHEDULE, APPENDIX C—continued

NOTE:

1. If any management staff listed in Appendix B is also included here, please indicate below as note.
2. If any of the departmental staff is not a Kenya Citizen, please give the name, citizenship and the date of expiry of the entry permit issued under the Immigration Act in a separate statement.
3. If any of the departmental state holds any professional qualifications, such as A.C.I.I., F.C.I.I., A.C.A., etc., please give the name and professional qualifications in a separate statement.

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Insurance

[Subsidiary]

FIRST SCHEDULE—continued

**APPENDIX D TO FORM NO. INS. 30-1**

**PARTICULARS OF AUDITORS, LEGAL ADVISERS AND ACTUARIES**

Name of Insurer: ..... As at 31st December, 20 .....

		Name of Firm	Address	Partners Names	Professional Qualifications	Since When
AUDITORS	1.					
	2.					
	3.					
LEGAL ADVISERS	1.					
	2.					
	3.					
ACTUARIES	1.					
	2.					
	3.					

Date: .....

Principal Officer

**APPENDIX E**

**PARTICULARS OF MEMBERS OF INSURANCE INDUSTRY WHOSE SERVICES  
AVAILED OF**

Name of Insurer: ..... As at 31st December, 20 .....

Members of the Insurance Industry (Please See Note 1)	Name	Address	Nature of Work Handled	Shareholding or other Interest (Please See Note 2)	Registration Number
(1)	(2)	(3)	(4)	(5)	(6)

Date: .....

Principal Officer

FIRST SCHEDULE, APPENDIX E—*continued*

- NOTES:
1. State here broker, agent or any other capacity in which the member is registered under the Act.
  2. Please give information of number and type of shares held, amount, of shareholding and any other interest as per item 7(ii) of FORM INS. 30-1.
  3. If the space herein is insufficient, please use additional paper.
  4. Please mention in column (6) the reference number of the registration under the Insurance Act, 1984.

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 APPENDIX F TO FORM NO. INS. 30-1

## LIST OF DOCUMENTS TO BE SUBMITTED

**A.** Statements/documents and information required from an insurer applying for registration to the Commissioner—

- (a) A copy of the memorandum of association or other instrument or document by which the applicant is constituted.
- (b) A copy of the articles of association or other rules of the applicant.
- (c) A certified copy of the published prospectus, if any.
- (d) A copy of each of the proposal and policy forms, endorsements and any form of written matter describing the terms or conditions of or the benefits to or likely to be derived from policies or intended to be used by the applicant.
- (e) Statements of the premium rates, advantages and terms and conditions to be offered in connection with insurance policies and details of the bases and formulae from which those rates have been calculated.
- (f) In connection with long term insurance business, a certificate by an actuary that the rates, advantages, terms and conditions proposed to be offered are sound and workable.
- (g) Detailed statement of assets and liabilities as at the date of application.
- (h) A description of all reserves with detailed descriptions of the method, bases and formulae for calculating each of the reserves.
- (i) A certificate from the Central Bank of Kenya specifying the amounts and details of deposits made by the applicant under section 32 of the Act.
- (j) Certified copies of reinsurance contracts.
- (k) the prescribed fee and a certified copy of the receipt should be enclosed.

NOTE:— *In case the applicant is a member of a tariff body in Kenya, in respect of one or more classes of insurance business, please mention it whilst dealing with (e) and (f) above and indicate variations of any, made in the policy wording and premium rating schedules from those provided under tariff regulations.*

**B.** Statements required in terms of section 30(k) of the Act—

- (a) A photo-copy of the certificate of incorporation.
- (b) Financial forecasts as required under regulation 7(b).
- (c) An estimate of sources of business as required under regulation 7(c).
- (d) A summary of reinsurance treaties as per regulation 7(d).
- (e) Copies or drafts agreements as per regulation 7(e).

[Subsidiary]

FIRST SCHEDULE, APPENDIX F—*continued*

- (f) Copies or drafts of any standard agreements with brokers and agents as per regulation 7(f).
- (g) In the case of long term insurance business, an actuary's certificate with regard to adequacy of financing arrangements as per regulation 7(g).
- (h) In the case of a new insurer or a new class of insurance business of an existing insurer, estimates of cost of installation and other information as per regulation 7(h).
- (i) Copies of accounts, statements and reports laid before shareholders as per regulation 7(i).
- (j) In the case of an insurer carrying on long term insurance business, copies of valuation reports as per regulation 7(j).

NOTE:— *Items (b) to (h) above apply to an insurer who has not transacted insurance business before or where authorization is sought to transact a class of business not transacted before.*

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 SECOND SCHEDULE

[Section. 41(9), Regulation 8, L.N. 85/2010, r. 6.]

## DETERMINATION OF ADMITTED ASSETS AND ADMITTED LIABILITIES FOR SOLVENCY PURPOSES

## PART A

For the purposes of section 41 of the Act—

1. Assets shall be valued at values not exceeding their market or realisable value and in particular—

- (a) the value of lands and buildings shall not exceed the value determined on the basis of a valuation by a member of the Institute of Surveyors of Kenya who is not a permanent employee of the insurer, at least once in every five years or, at such shorter interval as the Commissioner may consider necessary, if the circumstances in any particular case so demand;
- (b) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable, having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;
- (c) the value of any computer equipment of an insurer—
  - (i) in the financial year of the insurer in which it is purchased, shall not exceed three-quarters of the cost thereof to the insurer;
  - (ii) in the first financial year thereafter, shall not be greater than one-half of that cost;
  - (iii) in the second financial year thereafter, shall not be greater than one-quarter of that cost; and
  - (iv) in any subsequent financial year, shall be left out of the accounts;



SECOND SCHEDULE, PART A —continued

- (d) the value of office machinery (other than computer equipment), furniture, motor vehicles and other equipment shall be, in the financial year in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account;
- (e) dead stock and stationery shall be excluded.

2. A proper value shall be placed on every item of the liabilities. In determining an insurer's liabilities, the share capital, general reserve, reserve for bad and doubtful debts, depreciation fund and other reserves of similar nature not created to meet specific liabilities approved by the Commissioner, shall be excluded. The liabilities listed hereafter shall be included to the extent indicated—

- (a) Provision for dividends declared and outstanding, in full.
- (b) Amounts due to other persons or bodies carrying on insurance business, in full.
- (c) Amounts due to sundry creditors, in full.
- (d) Provision for taxation, in full.

3. Adequate provisions shall be made, in accordance with methods approved by the Commissioner, in respect of unearned premiums, unexpired risks and outstanding claims, including provision for claims incurred but not reported.

4. Statements of admitted assets and admitted liabilities shall be prepared, separately in respect of—

- (a) long term insurance business; and
- (b) general insurance business,

in the form prescribed in Part B of this Schedule.

**Form No. INS. 41-1**

**PART B – STATEMENT OF ADMITTED ASSETS AND ADMITTED LIABILITIES**

All Amounts in Kenya Shillings

Name of Insurer ..... As at 31st December, 20 .....

Description	LONG TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS	
	Market or Realizable Value	Book Value (as shown in balance sheet)	Market or Realizable Value	Book Values (as shown in balance sheet)
<b>I. ADMITTED ASSETS</b>				
(1) Investments Referred to Section 50(3) of the Act:				
(i) Kenya Government securities.				
(ii) Securities issued by statutory bodies prescribed under section 50(3)(b) of the Act.				
(iii) Securities issued by local authorities.				

## Insurance

[Subsidiary]

## SECOND SCHEDULE, Form No. INS. 41-1—continued

Description	LONG TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS	
	Market or Realizable Value	Book Value (as shown in balance sheet)	Market or Realizable Value	Book Values (as shown in balance sheet)
(iv) Securities issued by organisations prescribed under section 50(3)(d) of the Act.				
Sub-Total (1)				
(2) Investments Referred to in Section 50(4) of the Act.				
(i) Mortgages on unencumbered immovable property in Kenya.				
(ii) Debentures secured by mortgage on unencumbered immovable property in Kenya.				
(iii) Loans on life assurance policies within their surrender values.				
(iv) Land and buildings in Kenya (i.e., instruments of title to immovable property in Kenya).				
(v) Debentures shares of public companies whose shares are quoted on stock exchange in Kenya.				
(vi) Preference shares of public companies whose shares are quoted on stock exchange in Kenya.				
(vii) Ordinary shares of public companies whose shares are quoted on stock exchange in Kenya.				
(viii) Deposits in banks or financial institutions licensed under the Banking (Cap. 488)t.				
(ix) Other prescribed securities (specify).				
Sub-Total (2)				

## Insurance

[Subsidiary]

## SECOND SCHEDULE, Form No. INS. 41-1—continued

Description	LONG TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS	
	Market or Realizable Value	Book Value (as shown in balance sheet)	Market or Realizable Value	Book Values (as shown in balance sheet)
(3) <i>Other Admitted Assets</i>				
(i) Debentures of public companies whose shares are not quoted on stock exchange in Kenya.				
(ii) Preference shares of companies whose shares are not quoted on Stock Exchange in Kenya.				
(iii) Ordinary shares of companies whose shares are not quoted on stock exchange in Kenya.				
(iv) Motor Vehicles.				
(v) Computer equipment.				
(vi) Office machinery (other than computer equipment), furniture, fixtures and other equipment.				
(vii) Deleted by L.N. 85/2010, s. 6.				
(viii) Amounts due from reinsurers.				
(ix) Amounts due from unrelated bodies.				
(x) Amounts due from related bodies engaged in insurance business.				
(xi) Interest, dividend and rents either outstanding or accrued but not due.				
(xii) Cash in hand and on current account in banks in Kenya.				
(xiii) Other assets* (specify).				
Sub-Total (3)				
TOTAL ADMITTED ASSETS (1+2+3)				

## Insurance

[Subsidiary]

## SECOND SCHEDULE, Form No. INS. 41-1—continued

Description	LONG TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS	
	Market or Realisable Value	Book Value (as shown in balance sheet)	Market or Realisable Value	Book Values (as shown in balance sheet)
II OTHER ASSETS				
Assets which do not qualify as admitted assets:				
(i) on account of section 42(1) of the Act,				
(ii) on account of Part A to this schedule.				
TOTAL OTHER ASSETS (i) + (ii)				
III. ADMITTED LIABILITIES				
(1) Provisions—				
(i) Taxation.				
(ii) Dividends: declared and outstanding.				
(iii) Other provisions, excluding provision for doubtful debts.				
(2) Bank overdrafts and Bank loans.				
(3) Amounts due to related bodies excluding amounts shown under (4) below engaged—insurance business, —other business (excluding banking).				
(4) Amounts due to insurers (including related bodies) under reinsurance contracts.				
(5) Other amounts due to insurers (not being related bodies).				
(6) Debentures.				
(7) Other loans: —secured; —unsecured.				
(8) Sundry creditors.				
(9) Other sums owing by the insurer (specify).				
(10) Underwriting provisions:				
(a) Estimated liability in respect of outstanding claims whether due or intimated.				
(b) Provision for incurred but not reported claims.				

Insurance

[Subsidiary]

SECOND SCHEDULE, Form No. INS. 41-1—continued

Description	LONG TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS	
	Market or Realizable Value	Book Value (as shown in balance sheet)	Market or Realizable Value	Book Values (as shown in balance sheet)
(c) Annuities due and unpaid.				
(d) General insurance business Premium Provision:— —unearned premium provision —other premium provision (specify).				
(e) Other underwriting provisions (specify).				
(f) Long term insurance business funds: Total amount standing to the credit of the statutory fund or funds maintained by the insurer in respect of long term insurance business or the amount of those liabilities as determined by an investigation performed in accordance with section 57 of the Act and approved by the Commissioner, whichever is the greater.				
<b>TOTAL ADMITTED LIABILITIES</b>				

Date

Auditor

Principal Officer

NOTES

An insurer shall, when lodging Form No. INS. 41-1 with the Commissioner—

- (a) where any asset which is encumbered is included in a class of assets for which class a value is given in the statement, attach to the statement particulars of the asset, the nature of the encumbrance and the amount secured by the encumbrance;
- (b) attach a description and estimate of the financial obligation in respect of each chattel which is hired or leased to the insurer where the obligation in respect of such chattel exceeds one hundred thousand shillings in value;
- (c) in calculating the amounts to be entered in the statement, take account of only those amounts considered recoverable under rights of subrogation in respect of which the judgment of a court or an arbitral award has been obtained in favour of the insurer or in respect of which the person liable, or a person acting on his behalf, has agreed in writing to pay the amount due;

[Subsidiary]

SECOND SCHEDULE, Form No. INS. 41-1—*continued*

- (d) attach particulars of all contingent liabilities of the insurer (including contingent liabilities arising from the endorsement of bills of exchange) other than contingent liabilities in respect of insurance underwriting business;
- (e) attach particulars of amounts written off the value of any freehold or leasehold premises held by the insurer or the value of any lease of premises granted to the insurer;
- (f) attach details of each asset shown in the statement, the value of which exceeds ten per centum of the total value entered in the statement in respect of all entries marked on the Form with the symbol (\*);
- (g) attach a statement showing in respect of each item of land and building the following details, namely—
  - (i) situation of the property;
  - (ii) whether land or building or both;
  - (iii) whether land is freehold or leasehold;
  - (iv) date of purchase;
  - (v) total amount invested by the insurer;
  - (vi) net annual rental value of the property (i.e. net of taxes, maintenance, depreciation etc.);
  - (vii) market value as stated in the statement; and
  - (viii) date of the last valuation by a member of the Institute of Surveyors of Kenya and the name of the valuer;
- (h) in respect of deposits in banks or financial institutions licensed under the Banking Act (Cap. 488), attach a statement giving the name and the address of each bank or financial institution, the amount of deposit, the rate of interest and the maturity dates of the deposits;
- (i) in respect of mortgages on immovable property in Kenya attach a statement giving the following details in respect of each mortgage, namely—
  - (i) location of the property and name of the owner;
  - (ii) whether land or building or both;
  - (iii) whether land is freehold or leasehold;
  - (iv) outstanding period of the lease if property is leasehold;
  - (v) outstanding period of the mortgage if property is leasehold;
  - (vi) value of the property, the date of last valuation and name of the valuer;
  - (vii) amount advanced;
  - (viii) date of advance;
  - (ix) rate of interest; and
  - (x) amount outstanding (principal and interest to be shown separately);
- (j) in respect of investments shown under paragraph I-(1) in the Form, attach a statement giving in respect of each security the full description, date of purchase, date of maturity, rate of interest, face value, book value and market value;
- (k) in respect of investments in debentures shown under paragraphs I-(2)(ii), I-(2)(v) and I-(3)(i) in the Form, attach a statement, giving in respect of each investment, grouped separately according to the above-mentioned paragraphs—
  - (i) the name of the company;

SECOND SCHEDULE, Form No. INS. 41-1—*continued*

- (ii) date of purchase;
  - (iii) date of maturity;
  - (iv) rate of interest;
  - (v) face value;
  - (vi) book value;
  - (vii) market value; and
  - (viii) details about the interest paid or payable during the last three years (state whether “paid” or “not paid” in respect of each year);
- (l) in respect of investments in preference shares of companies shown under paragraphs I-(2)(vi) and I-(3)(ii) of the Form, attach a statement giving in respect of each investment, grouped separately according to the above-mentioned paragraphs—
- (i) the name of the company;
  - (ii) date of purchase;
  - (iii) rate of interest;
  - (iv) face value;
  - (v) book value;
  - (vi) market value; and
  - (vii) details about the interest paid or payable during the last three years (state whether “paid” or “not paid” in respect of each year);
- (m) in respect of investments in ordinary shares of companies shown under paragraphs I-(2)(vii) and I-(3)(iii) of the Form, attach a statement giving in respect of each investment, grouped separately according to the above-mentioned paragraphs—
- (i) the name of the company;
  - (ii) date of purchase;
  - (iii) face value;
  - (iv) book value;
  - (v) market value; and
  - (vi) rates of dividend paid during the last three years;
- (n) attach a statement showing details of the investments, if any, which do not comply with the provisions of subsections (6), (9) and (10) of section 50 of the Act and attach copies of the exemption documents obtained under those sections.

All the statements hereinbefore mentioned shall be signed by the Principal Officer.

Insurance

[Subsidiary]

THIRD SCHEDULE

PART A – GENERAL INSURANCE BUSINESS—CLASSES AND SUB-CLASSES

[S. 52 and Rule 10, L.N. 85/2010, r. 7, L.N. 57/2012, r. 16.]

<i>Serial Number</i>	<i>Class of Business</i>	<i>Brief Description of Class</i>	<i>Serial Number</i>	<i>Sub-Class of Business</i>
01	Aviation Insurance.	Aviation	010	Aviation
02	Engineering Insurance including Contractor's Risks, Machinery Breakdown, Erection All Risks and Consequential Loss from Breakdown.	Engineering	020	Contractor's All Risks
			021	Engineering Insurance—Others
03	Fire Insurance—Domestic Risks including Houseowners, Householders and other comprehensive package covers.	Fire—Domestic	030	Fire—Domestic
04	Fire Insurance—Industrial and Commercial Risks and consequential loss from fire insurance.	Fire—Industrial	040	Fire—Industrial
05	Liability Insurance—including public liability products' liability and professional indemnity.	Liability	050	Products' Liability
			051	Professional Indemnity
			052	Other Liability
06	Marine Insurance.	Marine	060	Marine Hull
			061	Marine Cargo
			062	Other Transit
07	Motor Insurance—Private Vehicles.	Motor—Private	070	Motor—Private
08	Motor Insurance—Commercial Vehicles.	Motor—Commercial	080	Motor—Commercial
09	Personal Accident Insurance.	Personal Accident	090	Personal Accident and Sickness
			091	Health/Medical Expenses Insurance (where separate policies are issued).
10	Theft Insurance including Burglary, Cash-in-Transit and Fidelity Guarantee.	Theft	100	Cash-in-Transit
			101	Fidelity Guarantee
			102	Burglary, All Risks and other Theft Insurance
11	Workmen's Compensation and Employer's Liability Insurance.	Workmen's Compensation	110	Workmen's Compensation and Employer's Liability



## Insurance

[Subsidiary]

## THIRD SCHEDULE, PART A—continued

<i>Serial Number</i>	<i>Class of Business</i>	<i>Brief Description of Class</i>	<i>Serial Number</i>	<i>Sub-Class of Business</i>
12	Medical insurance	Medical	120	Medical insurance
13	Micro-Insurance	Micro	130	Micro-insurance
14	Miscellaneous Insurance (i.e., class of business not included under those listed above.	Miscellaneous	140	Bond Insurance
			141	Livestock Insurance
			142	Crop Insurance
			143	Any other Insurance

NOTE:— The above classes and sub-classes shall have the meanings as per Part B of this Schedule unless otherwise defined in the Act or the Regulations.

PART B – GENERAL INSURANCE BUSINESS  
DEFINITIONS OF CLASSES OF INSURANCE

[L.N. 57/2012, r. 16.]

*Serial Number*

For the purposes of these Regulations the following are the definitions of the classes of general insurance business listed in Part A of this Schedule:

**01 Aviation insurance business**—means the business of effecting and carrying out contracts of insurance—

- (a) upon the aircraft or upon the machinery, tackle or furniture or equipment of aircraft;
- (b) against damage arising out of or in connection with the use of aircraft or against risks incidental to construction, repair or landing of aircraft, including airport owners' liability and third party risks;
- (c) against loss of life by accident, or injury by accident to aircrew members whilst performing or deemed to be performing their duties in accordance with their employment but does not include contracts of insurance in respect of risks of aviation excess of loss or crew loss of licence.

**02 Engineering insurance business**—means the business of effecting and carrying out contracts of insurance of various perils arising out of plant and machinery, such as explosion or collapse of boilers, breakdown of electrical or mechanical plant and lifts and cranes, and resultant damage to the insured's surrounding property and liability to third parties arising therefrom, also including contracts of insurance in respect of contract works covering damage to property on site however caused and third party liability arising therefrom.

**Fire insurance business**—means the business of effecting and carrying out of contracts of insurance, otherwise than incidental to some other class of insurance business against loss of or damage to property due to fire, explosion, storm, and other occurrences customarily included among the risks insured against in fire insurance policies.

**03 Fire insurance business**—Domestic Risks means fire insurance of risks which are of private or personal use, that is, other than commercial or industrial use.

[Subsidiary]

THIRD SCHEDULE, PART B—*continued*

**04 Fire insurance business**—Industrial and Commercial risks means fire insurance of commercial or industrial risks which are not domestic risks.

**05 Liability insurance business**—means the business of effecting and carrying out contracts of insurance against risks of persons insured incurring liabilities to third parties, not being risks arising out of, or in connection with the use of, motor vehicles or out of, or in connection with the use of, vessels or aircraft or risks incidental to the construction, repair or docking of vessels or aircraft.

**06 Marine insurance business**—means the business of effecting and carrying out contracts of insurance—

- (a) upon vessels or upon the machinery, tackle, furniture or equipment of vessels;
- (b) upon goods, merchandise or property of any description on board of vessels;
- (c) upon the freight of, or any other interest in or relating to, vessels;
- (d) against liability arising out of, or in connection with, the use of vessels;
- (e) against risks incidental to the construction, repair or docking of vessels, including third-party risks;
- (f) against transit risks (whether the transit is by sea, inland water, land or air, or partly one and partly another), including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance; or
- (g) against any other risks insurance against which is customarily undertaken in conjunction with, or as incidental to, the undertaking of such business as falls within this definition.

**Motor insurance business**—means the business of effecting and carrying out contracts of insurance against loss of, or damage to, or arising out of or in connection with the use of, motor vehicles, inclusive of third-party risks but exclusive of transit risks.

**07 Motor insurance business**—Private vehicles means motor insurance of private vehicles i.e. vehicles not used for business or other commercial purposes.

**08 Motor insurance business**—Commercial vehicles means motor insurance of commercial vehicles used for business and other commercial purposes.

**09 Personal Accident Insurance business**—means the business of effecting and carrying out contracts of insurance against risks of the persons insured sustaining injury as the result of an accident or an accident of a specified class or dying as the result of an accident or of an accident of a specified class or becoming incapacitated in consequence of disease or of disease of a specified class, not being contracts of Long term insurance business.

**10 Theft insurance business**—means the business of effecting and carrying out contracts of insurance against loss of or damage to property due to theft or any other cause not covered under any other class and shall include the insurance of cash in transit, fidelity guarantee insurance and all risks insurance.

**11 Workmen's compensation insurance business**—means the business of effecting and carrying out contracts of insurance against the liability of the employer to the employees in respect of any injury or disease arising out of and in the course of their employment.

THIRD SCHEDULE, PART B—*continued*

**12 Medical insurance business**—means the insurance business of paying for medical expenses, including the business of covering disability or long term nursing or custodial care needs.

**13. Micro-Insurance business**—means the authorized insurance business that provides protection accessible to the low income population, against specific perils in exchange for regular provision payments proportionate to that risk and managed in accordance with generally acceptable insurance principles.

**14 Miscellaneous insurance business**—means the business of effecting and carrying out contracts of insurance which are not principally or wholly of any type or types included in other classes of business but shall include insurance of bonds of all types, insurance of livestock and crop insurance.

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Insurance

[Subsidiary]

THIRD SCHEDULE—continued

Form INS. 54-1

[L.N. 108/2002, s. 6, L.N. 51/2011, s. 2, L.N. 57/2012, s. 16.]

PART C – GENERAL INSURANCE BUSINESS-REVENUE ACCOUNTS

(To be completed in accordance with regulation 11 of the Insurance Regulations, 1986)

All Amounts in Kenya Shillings

Name of Insurer.....		Year Ending: 31st December, 20.....												
		01	02	03	04	05	06	07	08	09	10	11	12	13
Class of Business	Aviation	Engineering	Fire Domestic	Fire Industrial	Liability	Marine	Motor Private	Motor Commercial	Personal Accident	Theft	Workmen's Compensation	Medical Insurance	Miscellaneous	Total (01 to 13)
1	Gross Premium													
2	Reinsurance Premium													
3	Net Premium (1-2)													
4	Unearned Premium brought forward													
5	Additional unexpired risk reserve brought forward													
6	Unearned Premium carried forward													
7	Addition unexpired risk reserve carried forward													

THIRD SCHEDULE, FORM INS. 54-1—continued

	Aviation 01	Engin eering 02	Fire Dom estic 03	Fire Indust rial 04	Liability 05	Marine 06	Motor Private 07	Motor Comm ercial 08	Personal Accident 09	Theft 10	Workmen's Compensat ion 11	Medical Insurance 12	Miscell aneous 13	Total (01 to 13) 14
8 Net earned Premium (3+4+5-6-7)														
9 Claims paid														
10 Amount of claims outstanding at the end of the year														
11 Amount of claims outstanding at the beginning of the year														
12 Total claims incurred (9+10-11)														
13 Commissions														
14 Expenses of Management														
15 Total Expenses (13+14)														
16 Balance being underwriting profit or loss (8-12-15)														
17 Increase (decrease) in the fund (3-9-13)														

[Subsidiary]

THIRD SCHEDULE, FORM INS. 54-1—continued

	Aviation 01	Engin eering 02	Fire Dom estic 03	Fire Indust rial 04	Liability 05	Marine 06	Motor Private 07	Motor Comm ercial 08	Personal Accident 09	Theft 10	Workmen's Compensa tion 11	Medical Insurance 12	Miscell aneous 13	Total (01 to 13) 14
Investment income receivable before deduction of tax 18														
Other expenses (specify) 19														
Gross profit or loss transferred to Profit & Loss Account (16+18-19) 20														
Insurance fund at the beginning of the year 21														
Insurance fund at the end of the year (17+18-19-21) 22														

Item numbers 3, 9, 13, 14, 15, 17, 18, 19, 20, 21 and 22 only need to be completed in respect of a class of business which is funded business and items 17, 21 and should be omitted in respect of the class of business.

..... Date ..... Auditor ..... Director ..... Director ..... Principal Officer

THIRD SCHEDULE—continued

Form INS. 54-2

[L.N. 108/2002, Section 6.]

LONG-TERM INSURANCE BUSINESS-REVENUE ACCOUNTS

(To be completed in accordance with regulation 11 of the Insurance Regulations, 1986)

All Amounts in Kenya Shillings

Name of Insurer: .....

Year Ending: 31st December, 20 .....

Class of Business	Bond Investment	Industrial Life	Ordinary Life	Superannuation		Total
				Group Life	Pensions	
	31	32	33	34		
Gross Premium	1					
Reinsurance Premium	2					
Net Premium (1-2)	3					
Claims paid and outstanding—						
—By death	4A					
—By Maturity	4B					
—Others (specify)	4C					
Total claims (4A+4B+4C)	5					
Surrenders (including surrender of bonus)	6					
Bonuses paid in cash or for deduction of premium	7					
Annuities paid	8					
Total benefit payment (6+7+8)	9					

Insurance

[Subsidiary]

THIRD SCHEDULE, FORM INS. 54-2—continued

Class of Business	Bond Investment	Industrial Life	Ordinary Life	Superannuation		Total
				Group Life	Pensions	
	31	32	33	34		
Commissions						
Expenses of management						
Other expenses (specify)						
Total (10+11+12)						
Investment Income						
Investment expenses						
Transfer to (or from) Profit and Loss Account						
Increase or decrease in the fund (3-9-13+14-12+16)						
Insurance fund at the beginning of the year						
Insurance fund at the end of the year (17+18)						

..... Date ..... Auditor ..... Director ..... Director ..... Principal Officer



Insurance

[Subsidiary]

THIRD SCHEDULE—continued

FORM NO. INS. 54-3

GENERAL INSURANCE BUSINESS-ADDITIONAL STATEMENT FOR FUNDED BUSINESS

CLASS OF BUSINESS

[Deleted by of L.N. 57/2012, r. 16.]

Form No. INS. 54-4

PROFIT AND LOSS ACCOUNT

(To be completed in accordance with Regulation 11 of the Insurance Regulations, 1966)

All Amounts in Kenya Shillings

Name of Insurer: ..... Year Ending 31st December, 20 .....

INCOME

Profit transferred from Revenue Accounts	1	
Investment income (not to any fund or account)	2	
TOTAL INCOME (1+2)	3	

OUTGO

Loss transferred from Revenue Accounts	4	
Management Expenses (not charged to any particular fund or account)	5	
Depreciation (not charged to any particular fund or account)	6	
Bad Debts (not charged to any particular fund or account)	7	
TOTAL OUTGO (4+5+6+7)	8	
Profit or loss before taxation (3-8)	9	
Provision for taxation	10	
Profit or loss after taxation (9-10)	11	

APPROPRIATION

Un-appropriated profit/loss brought forward	12	
Total amount of profit available for appropriation (11+12)	13	
Transfers to reserves (specify)	14	
Dividends paid or proposed to be paid	15	
Other appropriation (specify)	16	
Un-appropriated profit/loss carried forward (13-14-15-16)	17	

Date: .....

Auditor .....

Principal Officer .....

Director .....

Director .....

NOTES

- Under items 1 and 4, the amounts transferred from (1) Long Term and (2) General Insurance revenue accounts must be stated separately.

Insurance

[Subsidiary]

THIRD SCHEDULE, Form No. INS. 54-4—continued

2. Amounts under items 2, 5, 6 and 7 should be those which do not pertain to any fund or account and as such are not included in the revenue accounts.
3. Where this account includes any amounts of dividends or other payments to shareholders, the financial year in respect of which those dividends or other payments are made shall be stated.

Form No. INS. 54-5

BALANCE SHEET

LONG TERM INSURANCE BUSINESS/GENERAL INSURANCE BUSINESS\*

(\*Delete whichever is not applicable)

All Amount in Kenya Shillings

Name of Insurer: .....

As at 31st December, 20 .....

PART A			
1. Share Capital Issued			
Nominal Share Capital			
Less Nominal value of unissued shares			
Nominal value of issued shares			
2. Share Capital Paid up			
3. Reserves			
General			
Investment fluctuation			
Unappropriated surplus (if any)			
Other			
Sub-Total			
Less Unappropriated deficit (if any)			
Total Reserves			
4. Total of Paid up Capital and Reserves			
Represented by difference between total Assets and Liabilities as under—			
PART B			
ASSETS			
5. Fixed Assets			
Land and buildings			
less depreciation			
Motor vehicles			
less depreciation			
Computer equipment			
less depreciation			

THIRD SCHEDULE, Form No. INS. 54-5—continued

PART B		
Furniture, fixtures, fittings and office equipment other than computer equipment		
less depreciation		
Fixed Assets		
Other*		
less depreciation		
Sub-Total (5)		
6. Investments		
(i) Securities issued by:		
—Government of Kenya*		
—Local Government authorities		
—State Corporations*		
—Other organizations		
Prescribed under section 50(3)(d) of the Act		
Sub-Total 6(i)		
	<i>Related Bodies Corporate</i>	<i>Other</i>
		<i>Total</i>
(ii) Other		
*Ordinary Shares (Quoted on a Kenyan Stock Exchange)		
*Preference Shares (Quoted on a Kenyan Stock Exchange)		
*Preference Shares (Unquoted)		
*Debentures and notes (Quoted on a Kenyan Stock Exchange)		
*Debentures and notes (Unquoted) Loans Secured		
—by mortgages on real property*		
—on personal property*		
—other*		
Loan on life insurance policies within their surrender value unsecured Loans to—		
—directors of the insurer or related bodies and the spouses of those directors		
—employees of the insurer		
—other*		
Deposits with		
—banks		
—non-bank financial institutions		
—building Societies		
—others*		
Sub-Total 6(ii)		
Sub-Total 6(i)+(ii)		

Insurance

[Subsidiary]

THIRD SCHEDULE, Form No. INS. 54-4—continued

	<i>Related Bodies Corporate</i>	<i>Other</i>	<i>Total</i>
7. Current Assets			
Cash			
Premiums outstanding**			
Amounts retained under reinsurance			
Contracts*			
Amount due from bodies engaged in			
—Insurance business**			
—Other business**			
Sundry debtors**			
Other*			
Sub-Total (7)			
8. Intangible Assets			
Goodwill			
Establishment expenses			
Other*			
Sub-Total (8)			
9. Total Assets (5+6+7+8)			
LIABILITIES			
10. Underwriting Provisions			
Long term insurance business			
Statutory funds (to be specified)			
Premium Provisions			
—Unearned premium provision			
—Other premium provisions			
Outstanding claims provision			
Other underwriting provisions*			
Sub-Total (10)			
11. Long term Liabilities			
Bank loans			
Amount due to related bodies engaged in			
—Insurance business (other than under reinsurance contracts)			
—Other business (excluding banking)			
Amount due to insurers (including related bodies) under reinsurance contracts			
Other amount due to insurers (not being related bodies)			
Debentures			
Other Loans			
—Secured			
—Unsecured			
Other*			
Sub-Total (11)			

Insurance

[Subsidiary]

THIRD SCHEDULE, Form No. INS. 54-4—continued

	<i>Related Bodies Corporate</i>	<i>Other</i>	<i>Total</i>
12. Current Liabilities			
Provisions			
—Taxation			
—Dividends			
—Other provisions excluding			
Provisions for doubtful debts*			
Bank overdraft and bank loans			
Amounts due to related bodies engaged in			
—Insurance business			
—Other business (excluding banking)			
Amounts due to insurers (not being related bodies)			
Debentures			
Other loans unsecured			
Sundry creditors			
Other			
Sub-total (12)			
13. Total Liabilities (10+11+12)			
14. Difference between Total Assets and Liabilities (9–13)			

Date: .....

.....  
*Director*

.....  
*Auditor*

.....  
*Principal Officer*

.....  
*Director*

PART D – DIRECTIONS FOR THE PREPARATION OF FORMS

INS. NOS. 54–1, INS. 54–2, AND INS. 54–3

1. A revenue account in the prescribed form should be prepared in respect of each class of business referred to in regulations 9 and 10.

2. The amount of premium is to be recorded in relation to the date on which the contract of insurance was incepted. In this connection “**incepted**” refers to the time when the liability to risk of the insurer under a contract of insurance commenced and, for this purpose, a contract providing permanent open cover should be deemed to commence on each anniversary date of the contract.

3. Premiums shall be shown less discounts, refunds and rebates.

4. Premiums, claims, surrenders and annuities shall be shown net of reinsurances and commissions shall be shown after taking into account commissions received on reinsurances ceded and commissions paid on reinsurances accepted.

5. If any sum has been deducted from an expenditure item and entered on the assets side of the Balance Sheet, the sum so deducted shall be shown separately.

[Subsidiary]

THIRD SCHEDULE, PART D—*continued*

6. All entries in the above forms shall be in respect of insurer's total business i.e. Kenya business and outside Kenya business.

7. Particulars of each item of expense or income, as the case may be, included in and which accounts for more than ten per centum of the amount shown in respect of "other" income or "other" expenditure shall be given.

8. The basis on which reserves for unearned premium, unexpired risks and incurred but not reported claims in respect of each class of general insurance business were calculated should be stated by way of supplementary notes.

9. Where in respect of Aviation and/or Marine insurance business an insurer elects to account for the business on a three-year basis, he shall, in addition to the information furnished under Form INS. No. 54-1 (L.N. 108/2002), furnish the break-up in the Form INS. No. 54-3 (L.N. 108/2002), and also attach a certificate, signed by the same persons as are required to sign the revenue account, stating whether the fund carried forward for each of the three years of account is, in their opinion sufficient.

## DIRECTIONS FOR PREPARATION OF THE BALANCE SHEET

## FORM INS. 54-5

1. Separate balance sheets shall be furnished for General Insurance Business and for Long-Insurance Business.

2. An insurer when lodging with the Commissioner a statement in accordance with the above form in the Third Schedule shall—

- (a) where any asset which is encumbered is included in a class of assets for which class a value is given in the statement, attach particulars of the asset, the nature of the encumbrance and the amount secured by the encumbrance;
- (b) attach particulars of all contingent liabilities of the insurer (including contingent liabilities arising from the endorsement of bills of exchange) other than liabilities under contracts of insurance;
- (c) attach particulars of each liability and asset which accounts for more than ten per centum of the total amount shown in respect of each of the items marked on the above form with the symbol\*; and
- (d) deduct amounts for bad and doubtful debts in calculating the amounts to be inserted in respect of the items marked with the symbol\*\*.

3. The value of an asset or liability shall be the value of that asset or liability as determined in accordance with such criteria as may be prescribed by a professional body of accountants, if any, or in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods deemed by accountants practising in Kenya to be appropriate for insurers transacting business in Kenya.

## FOURTH SCHEDULE

[Section. 57(1)(b) and Regulation 12.]

PART A – PROVISIONS RELATING TO THE PREPARATION OF ABSTRACTS OF  
ACTUARY'S REPORTS

## SECTION I

1. Abstracts and statements shall be so arranged that the numbers and letters of the paragraphs correspond with those of the provisions of section II of this Schedule.

2. Where any table of mortality or sickness used in a valuation is not a published table, then for the purpose of complying with provision (3) of Part II of this Schedule, specimen policy values shall be given at the rate of interest employed in the valuation in respect of whole life insurance policies effected at the respective ages of 20, 30, 40 and 50 and having been in force respectively for five years, ten years and upwards at intervals of ten years; and similar specimen policy values shall be given in respect of endowment insurance policies effected at the respective ages of 20, 30 and 40 for endowment terms of twenty and thirty years, and in the case of policies involving continuous disability benefits, specimens of the valuation factors must be given:

Provided that where the specimen policy values or valuation factors required by this provision to be given are the same as those given in any abstract prepared under Part II of this Schedule previously submitted by the insurer to the Commissioner, it shall be sufficient in any abstract subsequently submitted to refer to the specimens so given in such manner as to enable the Commissioner to ascertain the required information.

3. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of provision (4) of Part II of this Schedule, no credit is to be taken for any adjustments made in order to ensure that no policy is treated as an asset.

4. (i) The average rate of interest earned or yielded in any year by the assets constituting a statutory fund shall, for the purpose of provision (5) of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest, dividends and rents credited to the statutory fund during the year after deduction of rates and taxes (any refund of rates or taxes made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one half of the aggregate of the balance or balances of the revenue account or accounts and the balance or balances of any reserve accounts in respect of the long term insurance business to which the statutory fund relates at the beginning of the year to a sum equal to one half of the aggregate of the balances of those account at the end of the year, and deducting from the aggregate of those two sums an amount equal to one half of the interest of the year.

(ii) It must be stated in what manner the sums invested in reversions and the income and profits derived from those reversions have been treated in circulating the average rate of interest.

5. Every abstract prepared in accordance with the requirements of Part II shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuation made for the purpose thereof and of the valuation data:

Provided that if the actuary who signs the abstract is not a permanent officer of the insurer, the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of the insurer and the actuary shall insert in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

[Subsidiary]

FOURTH SCHEDULE, SECTION I—*continued*

6. For the purposes of this Schedule—

“**extra premium**” means a charge for any risk not provided for in the minimum contract premium;

“**inter-valuation period**” means, in relation to any valuation in respect of any class of business, the period to the valuation date of that valuation from the valuation date of the last preceding valuation under the Act, or under the Insurance Companies Act, 1960, or in a case where no preceding valuation has been made in respect of that class of business, from the date on which the insurer began to carry on that class of business;

“**maturity date**” means the fixed date on which any benefit will become payable either absolutely or contingently;

“**net premiums**” means, in relation to any valuation, the premiums for which credit is taken in the valuation;

“**premium term**” means the period during which premiums are payable;

“**valuation date**” means, in relation to any valuation, the date as at which the valuation is made.

## SECTION II

The following documents shall be annexed to every abstract prepared in accordance with this Part of this Schedule—

- (a) A summary and valuation in Form No. INS. 57-1 of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates.
- (b) A Valuation Balance Sheet in Form No. INS. 57-2 of this Schedule; and
- (c) A statement of specimen Policy Reserve Values and Minimum Surrender Values in Form No. INS. 57-3 of this Schedule,

and every such abstract shall show—

1. The valuation date.

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurance and annuities shown in Form No. INS. 57-1 of this Schedule including statements on the following matters—

- (a) whether the principles were determined by the instruments instituting the insurer or by its articles of association or other rules, or, if not how the principles were determined;
- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates have been treated for the purpose of the valuation;
- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation;
- (d) the rate of bonus taken into account where, by the method of valuation, definite provision is made for the maintenance of a specific rate of bonus;
- (e) the method of allowing for—
  - (i) the incidence of the premium income; and
  - (ii) premiums payable otherwise than annually;



FOURTH SCHEDULE, SECTION II—*continued*

- (f) the methods by which provision has been made for the following matters, namely—
- (i) the immediate payment of claims;
  - (ii) future expenses and profits in the case of limited payment policies and paid up policies;
  - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise; and
  - (iv) payment of benefits or waiver of premiums during disability—
    - (a) in operation at the valuation date; and
    - (b) not in operation at that date,
- and whether any reserves have been made for the matters aforesaid;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and what steps have been taken to eliminate any such asset from the valuation;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which includes a charge for climatic, military or other extra risks have been dealt with; and
- (i) the currency in which the valuation is made and the basis of conversion into that currency of the value of liabilities in other currencies; and what provision, if any, has been made for possible increase of liability arising from fluctuations of the rate of exchange.

3. The tables of mortality, sickness and accident used, and the rate of interest assumed, in the valuation.

4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, and without profits.

5. The average rates of interest earned by the assets whether invested or un-invested constituting the relevant statutory fund for each of the three years preceding the valuation date.

6. The basis adopted in the distribution of surplus as between the insurer and policy owners, and whether that basis was determined by the instruments constituting the insurer, or by its articles of association or under rules, or if not, how the basis was determined.

7. The general principles adopted in the distribution of surplus among policy owners, including statements on the following matters—

- (a) whether the principles were determined by the instruments constituting the insurer, or by its articles of association or other rules, or, if not, how the principles were determined;
- (b) the number of years' premiums to be paid, period to elapse, and other conditions to be fulfilled, before a bonus is allotted;
- (c) whether the bonus is allotted in respect of each year's premiums paid, or in respect of each calendar year or year of insurance or, if not, how the bonus is allotted; and
- (d) whether the bonus vests immediately on allocation or, if not, the conditions of vesting.

[Subsidiary]

FOURTH SCHEDULE, SECTION II—*continued*

8. The total amount of surplus arising during the inter-valuation period including surplus paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of that surplus—

- (a) to interim bonus paid;
- (b) among policy owners with immediate participation, giving the number of the policies which participated and the sums insured under the policies (excluding bonuses);
- (c) among policy owners with deferred participation, giving the number of the policies which participated and the sums insured under the policies (excluding bonuses);
- (d) to shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (e) to every reserve fund, or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated); and
- (f) as carried forward unappropriated.

9. Specimens of bonuses allotted as at the valuation date to policies for one thousand shillings—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years; (where different rates of bonus are allotted to policies under which the premiums are payable for a limited term only, similar specimen bonuses shall be shown for policies having premium terms of ten and twenty years respectively); and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years and effected at age 20 for an endowment term of forty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years, together with the amounts apportioned under the various manners in which the bonus is receivable;

10. Where bonuses are allotted as reversionary additions to the sums insured under policies, a statement of the basis and conditions under which those bonuses may be surrendered for cash.

11. A statement in Form No. INS. 57-3 of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of which life assurance policies for one thousand shillings with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium, with similar specimen policy reserve values and specimen surrender values in respect of whole life assurance policies subject to premiums payable for twenty years and of endowment assurance policies maturing at age 55.

12. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident rates used for the purpose.

[Subsidiary]

FOURTH SCHEDULE—continued

Form INS. 57-1

[Section 57(1)(b) and Rule 12.]

PART B – FORMS

SUMMARY AND VALUATION OF THE POLICIES AS AT .....  
 CLASS OF LONG-TERM INSURANCE BUSINESS .....

Name of Insurer: ..... All amounts in thousands of shillings.

	PARTICULARS OF THE POLICIES FOR VALUATION					VALUATION ON BASES INDICATED BELOW				
	No. of Policies	Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums	Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums	Net Liability
INSURANCE POLICIES										
Group 1—With immediate participation in profits										
For whole term of life .....										
Others (to be specified) .....										
Extra premiums .....										
TOTAL INSURANCES .....										
Deduct reinsurances .....										
Net Insurances .....										
Group 2—With deferred participation in profits										
For whole term of life .....										
Others (to be specified) .....										
Extra premiums .....										
TOTAL INSURANCES .....										

[Subsidiary]

FOURTH SCHEDULE, FORM INS. 57-1—continued

	PARTICULARS OF THE POLICIES FOR VALUATION						VALUATION ON BASES INDICATED BELOW					
	No. of Policies	Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums		Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums	Net Liability	
INSURANCE POLICIES												
Deduct reinsurances .....												
Net Insurance .....												
TOTAL NET INSURANCES WITH PROFITS .....												
Group 3—Without participation in profits												
For whole term of life others to be specified .....												
Others (to be specified) .....												
Extra premiums .....												
TOTAL INSURANCES .....												
Deduct reinsurances .....												
TOTAL NET INSURANCES WITHOUT PROFITS .....												
Group 4—Other policies (To be specified)												
Deduct reinsurances .....												
TOTAL NET OTHER POLICIES .....												
Group 5—Annuities on Lives												
Immediate annuities on lives .....												

FOURTH SCHEDULE, FORM INS. 57-1—continued

	PARTICULARS OF THE POLICIES FOR VALUATION					VALUATION ON BASES INDICATED BELOW				
	No. of Policies	Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums	Sums Insured	Bonuses	Office Yearly Premiums	Net Yearly Premiums	Net Liability
INSURANCE POLICIES										
Deferred annuities .....										
Others (to be specified) .....										
TOTAL ANNUITIES .....										
Deduct reinsurances .....										
TOTAL NET ANNUITIES .....										
Total of the results after deduction of reinsurances .....										

Date: ..... Actuary

NOTES

1. Policies without participation in profits but with a guaranteed rate of bonus shall be shown separately in Group 3.
2. When any adjustments have been made in the valuation, details of the adjustments shall be specified separately in respect of each group in this form.
3. Office and net premiums and the values of the latter shall be shown after abatements made by the application of bonus.
4. Policies valued on different valuation bases should be grouped separately.

Insurance

[Subsidiary]

Form INS. 57-2

FOURTH SCHEDULE—continued

[L.N. 85/2010, Section 8.]

VALUATION BALANCE SHEET

All Amounts in Kenya Shillings

Name of Insurer .....		As at 31st December, 20 .....					Total
Class of Business		Bond Investment	Industrial Life	Ordinary Life	Superannuation		
Net Liability as shown in Form INS. 57-1 .....	1						
Surplus before distribution .....	2						
TOTAL (1+2) .....	3						
Insurance Fund as per Revenue Account .....	4						
Deficiency if any .....	5						
TOTAL (4+5) .....	6						

Date: .....

Actuary

[Subsidiary]

FOURTH SCHEDULE—continued

Form INS. 57-3

SPECIMEN POLICY RESERVE VALUE AND MINIMUM SURRENDER VALUE UNDER A .....  
 POLICY FOR SH. 1,000

All Amounts in Kenya Shillings  
 Valuation as at 31st December, 20 .....

Name of Insurer: .....	AGE AT ENTRY 20		AGE AT ENTRY 30		AGE AT ENTRY 40		AGE AT ENTRY 50	
	Reserve Value	Minimum Surrender Value	Reserve Value	Minimum Surrender Value	Reserve Value	Minimum Surrender Value	Reserve Value	Minimum Surrender Value
Number of Years Premiums Paid								
1. ....								
2. ....								
3. ....								
4. ....								
5. ....								
6. ....								
7. ....								
8. ....								
9. ....								
10. ....								
15. ....								
20. ....								

Date: .....  
 Actuary

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[Subsidiary]

## FIFTH SCHEDULE

[Section. 57(3) and Rule 13.]

PROVISIONS RELATING TO THE PREPARATION OF STATEMENTS OF LONG TERM  
INSURANCE BUSINESS

## PART I

1. For the purposes of this Schedule—

“**extra premiums**” means a charge for any risk not provided for in the minimum contract premium;

“**net premiums**” means the premiums for which credit is taken in the valuation in connection with which any statement is prepared;

“**valuation date**” means, in relation to any valuation, the date as at which the valuation is made.

2. Statement prepared in terms of section 57(3) of the Act shall be prepared, so far as practicable, in tabular form and shall be identified by numbers and letters corresponding with the provisions of Part II of this Schedule.

3. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule shall be shown to the nearest shilling.

4. Extra premiums where shown separately in Form No. INS. 57-1 in the Fourth Schedule shall not be included in statements prepared under this Schedule.

5. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.

6. Statements shall be prepared both for the total business before deduction in respect of reinsurances of the risks of the insurer on proportionate basis, and for those reinsurances.

7. Where the rates of office premiums required to be shown in any statement prepared under this Schedule are the same as the rates shown in any statement previously so prepared and submitted to the Commissioner of Insurance, it shall be sufficient to refer to the rates so shown in such manner as to enable the Commissioner to ascertain the required information.

## PART II

The statements required to be prepared under this Part are the following:

1. Statements as to policies issued in Kenya, separately prepared in respect of policies with and without participation in profits, showing—

- (a) in relation to policies for the whole term of life, the rates of office premiums charged, in accordance with the tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive;
- (b) in relation to endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty, and forty years giving the rates for ages at entry 20, 30 and 40, but excluding policies under which the ages at maturity exceed 60;
- (c) in relation to policies specified in sub-paragraphs (a) and (b) of this paragraph under which a continuous disability benefit is granted, the office premiums for that benefit under new policies, and the conditions which must be fulfilled before a continuous disability benefit—
  - (i) is allowed; and



(ii) ceases to be allowed; and

- (d) in relation to sinking fund policies the rates of office premiums charged in accordance with the published tables in use for new policies with original terms of 10, 15, 20 and 30 years:

Provided that, in the case of industrial life policies, there shall be shown, in lieu of the rates of office premiums charged as specified in the foregoing items, the sums insured by new policies, in accordance with the published tables in use, in return for fixed weekly and monthly office premiums and in addition the sums insured for ages at entry 1, 5, 10 and 15.

2. Statements separately prepared in respect of policies with immediate profits, with deferred profits, and without profits showing in quinquennial groups—

- (a) in relation to policies on single lives for the whole term of life—
- (i) the total amount insured (specifying sums insured and reversionary bonuses separately);
  - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums grouped according to ages attained; and
  - (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, of the corresponding net premiums grouped in accordance with the grouping adopted for the purpose of the valuation;
- (b) in relation to endowment insurance policies on single lives—
- (i) the total amount insured (specifying sums insured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation; and
  - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of valuation;
- (c) in relation to policies specified in the preceding provisions of this Schedule, under which a continuous disability benefit is granted—
- (i) the total amount of continuous disability benefit insured under the policies, grouped in accordance with the grouping adopted for the purposes of the valuation; and
  - (ii) the amount per annum, after deducting abatements made by the application of bonus, of office premiums payable (including premiums of which payment is, at the valuation date, suspended owing to disability arising from sickness or accident) and the corresponding net premiums, grouped according to the grouping adopted for the purposes of the valuation; and
- (d) in relation to sinking fund policies—
- (i) the total amount insured (specifying sums insured and reversionary bonuses separately), grouped according to the number of complete years from the valuation date to the date of maturity of the policies; and
  - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped according to the number of years' payments remaining to be made:
- Provided that—
- (a) in relation to endowment insurance policies or sinking fund policies which will reach maturity in less than five years, and are

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[Subsidiary]

grouped for the purposes of the valuation according to the years in which the policies will mature for payment, the information required by subparagraphs (b)(i), (c)(i) and (d)(i), above shall be given for each year instead of in quinquennial groups; and

- (b) where the net premiums in respect of policies for the whole term of life with premiums payable for a limited number of years, or the net premiums in respect of endowment insurance policies, are grouped for the purposes of the valuation otherwise than according to the number of years' payments remaining to be made, or where the sums insured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case, the valuation constants and an explanation of the method by which they are calculated shall be given for each group, and, in the case of the sums insured under endowment insurance policies, a statement shall also be given of the amount insured maturing for payment in each of the two years following the valuation date.

3. Statements in relation to immediate annuities on single lives for the whole term of life and annuities which were originally deferred but which have been entered upon before or on the valuation date, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of those annuities, grouped according to ages attained at the valuation date.

4. Statements in relation to deferred annuities which have not been entered upon before or on the valuation date, separately prepared in respect of annuities on male and female lives, showing in quinquennial groups—

- (a) the total amount of those annuities, grouped according to the number of years from the valuation date to the date the annuity is to be entered upon, and either—
- (i) the average age obtained by weighting according to the amount of the annuity attained at the valuation date by the prospective annuitants; or
  - (ii) the valuation constants and an explanation of the method by which they are calculated; and
- (b) the amount per annum of office premiums payable and of the corresponding net premiums, grouped according to the number of years' payments remaining to be made.

5. Statements in relation to immediate annuity certain policies showing in quinquennial groups the total amount of those annuities grouped according to the number of years from the valuation date to the date the annuities cease to be payable.

6. Statements showing in quinquennial groups the amount per annum of continuous disability benefits payable at the valuation date in respect of disability of more than one year's duration, grouped according to ages attained.

7. Statements showing the total amount of continuous disability benefit paid and premiums waived in each of the five years immediately preceding the valuation date.

SIXTH SCHEDULE

[Section. 57(5) and Rule 14.]

REGULATIONS RELATING TO ACTUARIAL VALUATION OF LIABILITIES

1. The basis of valuation adopted shall be such as to place a proper value upon the liabilities, having regard to the mortality experience among the persons whose lives have been insured by the insurer, to the average rate of interest from investments and to the expenses of management (including commission), and shall be such as to ensure that no policy shall be treated as an asset.

2. The value placed upon the aggregate liabilities of a statutory fund in respect of policies by reason of the adoption of any basis of valuation shall not be less than it would have been if it had been calculated on the minimum basis in accordance with the provisions of the Seventh Schedule.

3. The actuary who makes the valuation shall certify whether, in his opinion, the value placed upon the aggregate liabilities of a statutory fund in respect of policies by the valuation is not less than the value which would have been place upon those aggregate liabilities if it had been calculated on the minimum basis in accordance with the provisions of the Seventh Schedule.

4. Where the balance sheet of the insurer includes amongst the assets of the long term insurance business to which a statutory fund relates any sums representing expenses of organization or extension, or the purchase of business or goodwill or other intangible assets, and the amount of the other assets of that business (after deducting debts due by the insurer in respect of that business) is less than the balance of the revenue accounts, as the case may be, as shown in the balance sheet in respect of that business—

- (a) where the statutory fund relates to one class of long term insurance business only, the balance of revenue account shall be shown in the appropriate valuation balance sheet as reduced by the amount of the deficiency; and
- (b) where the statutory fund relates to more than one class of long term insurance business, the balances of the revenue accounts in respect of each class of long term insurance business shall each be shown in the appropriate valuation balance sheet as reduced by a portion of the amount of the deficiency, being a portion ascertained by apportioning the amount of the deficiency between those revenue accounts so that the amount to be apportioned to each account bears to the amount to be apportioned the same proportion as the balance of that account bears to the sum of the balances of those accounts.

SEVENTH SCHEDULE

[Section 58(3) and Rule 15, L.N. 51/2011, s. 3.]

RULES FOR THE CALCULATION OF THE VALUE OF LIABILITIES ON THE MINIMUM BASIS

1. The rates of mortality used in calculating the liability under a policy shall be rates assumed in accordance with the table below—

<i>Type of Policy</i>	<i>Table</i>
1. Industrial Life	KE 2001-03 Tables for Assured Lives – Individual Assured Lives
2. Ordinary Life	KE 2001-03 Tables for Assured Lives

Insurance

[Subsidiary]

SEVENTH SCHEDULE—continued

<i>Type of Policy</i>	<i>Table</i>
3. Immediate annuities and deferred annuities after vesting	KE 2001-2003 Tables for Assured Lives – Individual Annuitant Lives
4. Group Life	KE 2001-2003 Tables for Assured Lives – Adjusted Group Assured Lives
5. All other assurances including deferred annuities during deferment period	KE 2001-2003 Tables for Assured Lives – Individual Assured Lives

2. The rates of interest used in calculating the liability under a policy shall be as follows:

<i>Type of Policy</i>	<i>Rate %</i>
1. Assurances under registered superannuation schemes.	6 Gross
2. Assurance other than those under registered superannuation schemes including industrial life assurances.	4 Net
3. Deferred annuities	5½ Gross
4. Immediate annuities	6½ Gross

3. For the purposes of paragraph (2) of this Schedule “Registered” means registered under the Income Tax Act (Cap. 470).

4. When for certain types of policies a valuation is done by accumulation with compound interest of the premiums paid, the premiums to be accumulated shall not be less than ninety per centum of office premiums and the rate of interest shall not be less than the rate currently paid by the office on all withdrawals or surrenders under that plan.

5. The liability in respect of a policy other than the type of policy referred to in paragraph (4) shall be the difference between the capitalized values as at the valuation date of—

- (a) the reversion in the sum insured, including any reversionary bonuses declared in respect of the policy and still attaching to the policy at the valuation date; and
- (b) the future adjusted net premium, less any reduction of those premiums which may have been granted as a bonus, or obtained by the giving of any valuable consideration according to the contingencies upon which they are respectively payable.

6. For the purpose of rule 5—

“adjusted net premiums” means the net premium for the policy increased by the difference between the net premium and the net premium that would apply (according to the rate of interest and rates of mortality assumed) if—

- (i) the policy had been issued one year after the actual date of its issue; and
- (ii) in cases where the premiums are payable for a limited period, the premiums were payable for a period one year less than that limited period;

“net premium” means such premium exclusive of any addition for bonuses, office expenses and other charges, as (according to the rate of interest and rates of mortality assumed and the age, at the date of the issue of the policy, of the person whose life is insured) is sufficient to provide for the risk incurred by the company in issuing the policy.

7. No policy shall be treated as an asset.

Insurance

[Subsidiary]

EIGHTH SCHEDULE

[Rule 16.]

ACTUARY'S CERTIFICATE

I, ..... of .....
(full name) (business address)

..... being an Actuary duly qualified
in terms of section 2 of the Insurance Act having conducted an investigation in terms of section 57
and 58 of that Act, do hereby certify as under:

(a) that in my opinion the value placed upon the aggregate liabilities relating to the .....
..... in respect of policies
(statutory fund)

on the basis of valuation adopted by me is not less than what it would have been if the
aggregate value had been calculated on the minimum basis prescribed;

(b) that necessary steps as required under section 58(5)(a) were taken; and

(c) that I am satisfied that the value of assets adopted by me are, on the basis of the auditor's
certificates appended to the balance sheet, fully of the value so adopted.

Date

Actuary

NINTH SCHEDULE

NOTES TO FORM NOS. INS. 59-1 TO 59-12

1. Separate statements need to be furnished in respect of—

- (a) (i) Kenya business and
(ii) outside Kenya business;
(b) (i) Long term business and
(ii) General insurance business;
(c) (i) Inward reinsurance and
(ii) Outward reinsurance business,

unless the references on the form indicate otherwise.

2. Reference may be made to Part A of Third Schedule with regard to Class and
Sub-Class of General insurance business.

3. All premium amounts shall be taken after deduction of return premiums and
rebate and shall include extra or additional premiums. In this context, gross direct
premiums shall mean premiums in respect of direct business, and inward reinsurance
premiums shall mean amounts of premiums received by way of reinsurances accepted.
Outward reinsurance premiums shall mean amounts of premiums ceded by way of
reinsurance.

4. Amounts of commission which shall include brokerage fee or other remuneration
paid to an intermediary shall be shown separately under appropriate headings and not
deducted from premium amounts.

5. Claim amounts shall include claims expenses and amounts of outstanding claims
provision shall include provision for incurred but not reported except where required to be
shown separately.

[Subsidiary]

NINTH SCHEDULE—*continued*

6. Particulars of portfolio transfers made during the year should be furnished in a separate statement.

7. Care should be taken to ensure that the amounts stated in the various forms in this Schedule are consistent amongst themselves and with those in the revenue accounts.

8. If the space in any form is inadequate give the required information in a separate statement.

9. **KRC** means Kenya Reinsurance Corporation.

10. **Africa Re** means African Reinsurance Corporation.

NINTH SCHEDULE—continued

Form INS. 59-1A

STATEMENT OF PREMIUM INCOME \* LONG-TERM INSURANCE BUSINESS \* KENYA BUSINESS/OUTSIDE KENYA BUSINESS

\*(Delete whichever is not applicable)

Name of Insurer: .....	Class of Business	Year ending 31st December, 20 .....				Total
		Bond Investment	Industrial Life	Ordinary Life	Superannuation	
Serial Number		01	02	03	04	
1	Gross Direct Premium					
2	Inward Reinsurance premium					
3	Outward Reinsurance Premium					
4	NET PREMIUM (1+2-3)					

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-1B

[L.N. 51/2011, s. 4.]

STATEMENT OF PREMIUM INCOME GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

(\*Delete whichever is not applicable)

Class of Business		All amounts in Kenya Shillings. Year ending 31st December, 20 .....											
		Aviation 01	ENGINEERING 02	Fire Domestic 03	Fire Industrial 04	LIABILITY 05	MARINE AND TRANSIT 06			Motor Private 07	Medical Insurance 08		
Sub-Class of Business		Aviation 010	Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof. Indus trial 051	Others 052	Marine Cargo 060	Other Transit 061	Marine Hull 062	Motor Private 070
1	Gross direct premium .....												
2	Inward reinsurance premium .....												
3	Outward reinsurance premium .....												
4	Net premium (1+2-3) .....												
5	Premium reserved at the beginning of the year												
6	—earned premium .....												
6	—any other .....												
7	TOTAL (5+6) .....												



NINTH SCHEDULE, FORM INS. 59-1B—continued

Class of Business	Aviation	ENGINEERING		Fire Domestic	Fire Industrial	LIABILITY			MARINE AND TRANSIT			Motor Private	Medical Insurance
	01	02	02	03	04	05	05	06	06	07	08		
Sub-Class of Business	Aviation	Car	Others	Fire Domestic	Fire Industrial	Products Liability	Prof. Indus trial	Marine Cargo	Other Transit	Marine Hull	Motor Private	Medical Insurance	
	010	020	021	030	040	050	051	060	061	062	070	08	
Premium reserved at the end of the year													
—earned premium													
—any other													
TOTAL (8+9)													
Earned premium for the year (4+7-10)													

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-1B—continued  
STATEMENT OF PREMIUM INCOME GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

(\*Delete whichever is not applicable)

Name of Insurer:..... All amounts in Kenya Shillings.  
Year ending 31st December, 20 .....

Class of Business	Motor Commercial 08	Personal Accident 09		THEFT 10			Workmen's Compensation 11	MISCELLANEOUS 12			Grand Total 13
		Personal Accident and sickness 090	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risks others 102		Bond 120	Crop 121	Livestock 122	
Sub-Class of Business	Motor Commercial 080										
1 Gross direct premium .....											
2 Inward reinsurance premium .....											
3 Outward reinsurance premium .....											
4 Net premium (1+2-3) .....											
5 Premium reserved at the beginning of the year—earned premium											
6 —any other .....											
7 TOTAL (5+6) .....											

NINTH SCHEDULE, FORM INS. 59-1B—continued

Class of Business	Motor Commercial 08	Personal Accident 09		THEFT 10			Workmen's Compensation 11			MISCELLANEOUS 12			Grand Total 13
	Motor Commercial 080	Personal Accident and sickness 090	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risks others 102	Workmen's Compensation 110	Bond 120	Crop Livestock 121	122	Any other 123		
Premium reserved at the end of the year													
—earned premium	8												
—any other	9												
TOTAL (8+9)	10												
Earned premium for the year (4+7-10)	11												

.....  
Date ..... Auditor ..... Principal Officer .....

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-2

[L.N. 51/2011, s. 4.]

STATEMENT OF INCURRED CLAIMS—INCIDENTS OCCURRING IN PREVIOUS YEARS  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

(\*Delete whichever is not applicable)

Class of Business		Aviation		ENGINEERING		Fire Domestic		Fire Industrial		LIABILITY			MARINE AND TRANSIT			Motor Private		Medical Insurance
		01	010	02	020	021	030	040	040	050	051	052	060	061	062	070	08	
Name of Insurer .....		All amounts in Kenya Shillings. Year ending 31st December, 20 .....																
Sub-Class of Business																		
Gross direct business																		
1 Claims paid .....																		
2 Claims outstanding at end of:																		
3 —current year .....																		
4 —the preceding year .....																		
Inward reinsurance business:																		
5 Claims paid .....																		
6 Claims outstanding at the end of:																		
—current year .....																		

NINTH SCHEDULE, FORM INS. 59-2—continued

Class of Business	Aviation 01		ENGINEERING 02		Fire Domestic 03		Fire Industrial 04		LIABILITY 05			MARINE AND TRANSIT 06			Motor Private 07		Medical Insurance 08	
	Aviation 010	Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof. Industrial 051	Others 052	Marine Cargo 060	Other Transit 061	Marine Hull 062	Motor Private 070	Medical Insurance 080					
—the preceding year .....	7																	
Incurring claims (6+7-8) .....	8																	
Outward reinsurance business:																		
Claims paid .....	9																	
Claims outstanding at the end of:																		
—current year .....	10																	
—preceding year ..	11																	
Incurring claims (9+10-11)	12																	
Net Business																		
Claims paid .....	13																	
Claims outstanding at the end of:																		
—current year .....	14																	

Insurance

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-2—continued

Class of Business	Aviation		ENGINEERING		Fire Domestic		Fire Industrial		LIABILITY			MARINE AND TRANSIT			Motor Private		Medical Insurance
	01	010	02	Others	03	030	04	040	05	Products Liability	Others	06	Marine Cargo	Other Transit	07	070	08
Sub-Class of Business	010	020	021	030	040	050	051	052	060	061	062	070					
—the preceding year	15																
Incurred claims (13+14+15)	16																

Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Form INS. 59-3A

STATEMENT OF INCURRED CLAIMS—LONG-TERM INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

Name of Insurer: ..... (\* Delete whichever is not applicable)

All amounts in Kenya Shillings  
Year ending 31st December, 20 .....

Class of business	Bond Investment		Industrial Life		Ordinary Life		Superannuation		Total
	01	02	03	04	05	06	07	08	
Serial Number									
Gross direct business									
Claims paid	1								
Claims outstanding as at the end of:									
—Current year	2								

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-3A—continued

Class of business	Bond Investment	Industrial Life	Ordinary Life	Superannuation	Total
Serial Number	01	02	03	04	
—Preceding year .....					
Inurred claims (1+2-3) .....					
Inward reinsurance business					
Claims paid .....					
Claims outstanding as at the end of:					
—Current year .....					
—Preceding year .....					
Inurred claims (5+6-7) .....					
Outward reinsurance business					
Claims paid .....					
Claims outstanding as at the end of:					
—Current year .....					
—Preceding year .....					
Inurred claims (9+10-11) .....					
<i>Net Business</i>					
Claims paid (1+5-9) .....					
Claims outstanding at the end of:					
—Current year (3+7-11) .....					

Insurance

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-3A—continued

Class of business		Bond Investment	Industrial Life	Ordinary Life	Superannuation	Total
Serial Number						
—Preceding year (2+6-10) .....		01	02	03	04	
15 .....						
16 .....						
Incurred claims (4+8-12) or (13+14-15) .....						

..... Date ..... Auditor ..... Principal Officer .....

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Form INS. 59-3B

[L.N. 51/2011, Section 4.]

STATEMENT OF INCURRED CLAIMS—INCIDENTS OCCURRING IN PREVIOUS YEARS AND TOTAL INCURRED CLAIMS—GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

(\*Delete whichever is not applicable)

Name of Insurer: ..... All amounts in Kenya Shillings. Year ending 31st December, 20.....

Class of Business	Aviation 01	Engineering 02		Fire Domestic 03	Fire Industrial 04	Liability 05			Marine and Transit 06			Motor Private 07	Medical Insurance 08	
		Car 020	Others 021			Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof. Industrial 051	Others 052	Marine Cargo 060			Other Transit 061
Sub-Class of Business	Aviation 010													
Incidents Occurring During the Current Year.														
Gross direct business														



[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-3B—continued

Class of Business	Aviation	Engineering		Fire Domestic		Fire Industrial	Liability			Marine and Transit			Motor Private	Medical Insurance
	01	Car	Others	Fire Domestic	Fire Industrial	Fire Industrial	Products Liability	Prof. Industrial	Others	Marine Cargo	Other Transit	Marine Hull	07	08
Sub-Class of Business	Aviation	020	021	030	040	040	050	051	052	060	061	062	070	
1 Claims paid .....														
2 Claims outstanding at the end of the year .....														
3 Incurred claims (1+2)														
Inward reinsurance business:														
4 Claims paid .....														
5 Claims outstanding at the end of the year .....														
6 Incurred claims (4+5)														
Outward reinsurance business:														
7 Claims paid .....														
8 Claims outstanding at the end of year														
9 Incurred claims (7+8)														
Net business:														
10 Claims paid (1+4-7).														

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-3B—continued

Class of Business	Aviation 01		Engineering 02		Fire Domestic 03		Fire Industrial 04		Liability 05			Marine and Transit 06			Motor Private 07		Medical Insurance 08	
	Aviation 010	Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof. Industrial 051	Others 052	Marine Cargo 060	Other Transit 061	Marine Hull 062	Motor Private 070						
Sub-Class of Business																		
Claims outstanding at the end of the year (2+5-8).....																		
Provision for incurred but not reported claims....																		
Total incurred claims (10+11+12).....																		
Incident occurring in the previous years:																		
Net incurred claims																		
Total Incurred Claims (13+14) .....																		
Earned premium for the year.....																		
Incurred claims ratio (15/16)×100 .....																		

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

NINTH SCHEDULE—continued

Form INS. 59-3B

STATEMENT OF INCURRED CLAIMS—INCIDENTS OCCURRING IN PREVIOUS YEARS AND TOTAL INCURRED CLAIMS—GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

Name of Insurer: ..... (\*Delete whichever is not applicable)  
 All amounts in Kenya Shillings.  
 Year ending 31st December, 20 .....

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Miscellaneous 12			Grand Total 13		
		Personal Accident and sickness 090	Health 091	Cash in Transit	Fidelity Guarantee	Burglary all risks others	Bond	Crop	Livestock		Any other	
Sub-Class of Business	Motor Commercial 080											
Incidents occurring during the current year:												
Gross direct business:												
1 Claims paid .....												
2 Claims outstanding at the end of the year .....												
3 Incurred claims (1+2) .....												
Inward reinsurance business:												
4 Claims paid .....												
5 Claims outstanding at the end of the year .....												
6 Incurred claims (4+5) .....												

[Subsidiary]

NINTH SCHEDULE—continued

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Workmen's Compensation 11			Miscellaneous 12			Grand Total 13
		Motor Commercial 080	Personal Accident and sickness 090	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risks others 102	Workmen's Compensation 110	Bond 120	Crop 121	Livestock 122	Any other 123	
Outward reinsurance business:													
Claims paid ..... 7													
Claims outstanding at the end of year ..... 8													
Incurred claims (7+8) ..... 9													
Net business:													
Claims paid (1+4-7)..... 10													
Claims outstanding at the end of the year (2+5-8) ... 11													
Provision for incurred but not reported claims ..... 12													
Total incurred claims (10+11+12) ..... 13													
Incident occurring in the previous years:													
Net incurred claims													

NINTH SCHEDULE—continued

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Workmen's Compensation 11			Miscellaneous 12			Grand Total 13
		Personal Accident and sickness 090	Health 091	Cash in Transit	Fidelity Guarantee	Burglary all risks others	Workmen's Compensation	Bond	Crop	Livestock	Any other		
Sub-Class of Business	Motor Commercial 080			100	101	102	110	120	121	122	123		
Total incurred claims (13+14) .....	15												
Earned premium for the year .....	16												
Incurred claims ratio (15/16)×100 .....	17												

Date: ..... Auditor ..... Principal Officer .....

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59—4

[L.N. 51/2011, s. 4.]

STATEMENT OF UNDERWRITING BALANCES GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

Name of Insurer: ..... All amounts in Kenya Shillings.  
 Year ending 31st December, 20 .....

(\*Delete whichever is not applicable)

Class of Business	Aviation		Engineering		Fire Domestic		Fire Industrial		Liability			Marine and Transit			Motor Private	Medical Insurance	
	01	010	02	020	03	030	04	040	05	050	051	052	060	061	062	07	08
Sub-Class of Business	Aviation	Aviation	Car	Others	Fire Domestic	Fire Domestic	Fire Industrial	Fire Industrial	Products Liability	Prof. Industrial	Others	Marine Cargo	Other Transit	Marine Hull	Motor Private	Motor Private	Medical Insurance
	010	010	020	021	030	030	040	040	050	051	052	060	061	062	070	070	08
(A) Business which is not funded:																	
1 Earned premiums (net) .....																	
2 Incurred claims (net) .....																	
3 Commission (net) ..																	
4 Management expenses																	
5 Total outgo (2+3+4) .....																	
6 Underwriting surplus or deficit (1-5) .....																	

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-4—continued

Class of Business	Aviation		ENGINEERING		Fire Domestic		Fire Industrial		LIABILITY			MARINE AND TRANSIT			Motor Private		Medical Insurance			
	01	010	02	Others	03	030	04	040	05	Products Liability	Prof. Industrial	Others	06	Marine Cargo	Other Transit	062	07	08		
Sub-Class of Business			Car																	
(B) Business which is funded:																				
Net premiums written .....	7																			
Claims paid (net):																				
Incident occurring in previous year .....	8																			
—current year .....	9																			
—Total (8+9) .....	10																			
Total outgo (3+4+10) .....	11																			
Increase or decrease in the fund (7-11) .....	12																			

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-4

STATEMENT OF UNDERWRITING BALANCES GENERAL INSURANCE BUSINESS (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

Name of Insurer: ..... (\* Delete whichever is not applicable) All amounts in Kenya Shillings. Year ending 31st December, 20.....

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Workmen's Compensation 11			Miscellaneous 12			Grand Total 13
		Personal Accident and sickness 090	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risks others 102	Workmen's Compensation 110	Bond 120	Crop 121	Livestock 122	Any other 123		
Sub-Class of Business	Motor Commercial 080												
(A) Business which is not funded:													
1 Earned premiums (net) ...													
2 Incurred claims (net) .....													
3 Commission (net) .....													
4 Management expenses ..													
5 Total outgo (2+3+4) .....													
6 Underwriting surplus or deficit (1-5) .....													
(B) Business which is funded:													
7 Net premiums written .....													



NINTH SCHEDULE, FORM INS. 59-4—continued

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Workmen's Compensation 11			Miscellaneous 12			Grand Total 13
		Motor Commercial 080	Personal Accident and sickness 090	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risks others 102	Workmen's Compensation 110	Bond 120	Crop 121	Livestock 122	Any other 123	
8													
9													
10													
11													
12													

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-5

STATEMENT OF COMMISSION AND MANAGEMENT EXPENSES ACTUAL EXPENDITURE

Name of Insurer: ..... All amounts in Kenya Shillings.  
 Year Ending 31st December, 20 .....

	LONG-TERM INSURANCE BUSINESS			GENERAL INSURANCE BUSINESS			TOTAL BUSINESS		
	Kenya	Outside Kenya	Total (1+2)	Kenya	Outside Kenya	Total (4+5)	Kenya (1+4)	Outside Kenya (2+5)	Total (3+6)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
A. Commission/brokerage on Gross direct business .....									
B. Management Expenses									
Salaries .....									
Travelling Expenses .....									
Contribution to Staff .....									
Superannuation Provident Fund .....									
Staff Welfare Expenses (specify) .....									
DIRECTORS—Fees .....									
Other Expenses (Specify)									
Legal Expenses .....									
Auditor's Fees .....									
Actuary's Fees .....									
Medical Fees (for Long-term Business) .....									
Office—Rent .....									
Repairs .....									

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-5—continued

	LONG-TERM INSURANCE BUSINESS			GENERAL INSURANCE BUSINESS			TOTAL BUSINESS		
	Kenya (1)	Outside Kenya (2)	Total (1+2) (3)	Kenya (4)	Outside Kenya (5)	Total (4+5) (6)	Kenya (1+4) (7)	Outside Kenya (2+5) (8)	Total (3+6) (9)
Electricity, Water .....									
Insurance Premium .....									
Office Machines (Specify)									
Hire and Maintenance Charges .....									
Depreciation Charge .....									
Repair Charges .....									
Publicity and Advertising .....									
Printing and Stationary .....									
Postage including telex/cable .....									
Telephone .....									
Bad debts written off .....									
Motor Vehicles .....									
Hire and maintenance charges .....									
Depreciation charges .....									
Repair charges .....									

Insurance

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-5—continued

	LONG-TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS		TOTAL BUSINESS		
	Kenya	Outside Kenya	Kenya	Outside Kenya	Kenya	Outside Kenya	Total
	(1)	(2)	(4)	(5)	(7)	(8)	(9)
Insurance premium .....							
Other expenses (Specify) .....							
Total Expenses of Management .....							
<b>C. Total Actual Expenditure (A)+(B) .....</b>							

Date: ..... Auditor ..... Principal Officer .....

NOTES

1. Read the notes in the Ninth Schedule to the Insurance Regulations and comply.
2. The columns (1), (4) and (7) refer to Kenya Business and columns (2), (5) and (8) refer to Outside Kenya Business.
3. The expenses wherever incurred should be shown under the appropriate column (1) or (2) and (4) or (5) depending on whether they pertain to Kenya business or Outside Kenya business. Accordingly, details of expenses incurred in Kenya pertaining to Outside Kenya business or vice versa and any apportionment of common expenses indicating the basis of such apportionment should be furnished in a separate statement.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-6

PARTICULARS OF REINSURANCE TREATIES INWARD/OUTWARD REINSURANCE\*  
 KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*  
 LONG-TERM/GENERAL INSURANCE BUSINESS\*

(\*Delete whichever is not applicable)

Name of Insurer ..... All amounts in Kenya Shillings  
 Year ending 31st December, 20.....

Class of Business	Sub class of Business	Type of Treaty	NET RETURN IN RESPECT OF		REINSURANCE TREATY LIMITS			Inception Date
			any one Risk	any one Event	percentage or Number of Lines	MAXIMUM AMOUNT		
						Per Risk (5)	Per Event (6)	
		(1)	(2)	(3)	(4)			

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-5—continued

(\*Delete whichever is not applicable)

All amounts in Kenya Shillings  
Year ending 31st December, 20.....

Name of Insurer: .....	REINSURANCE TERMS				REINSURANCE PREMIUMS AND CLAIMS RECOVERIES FOR PRECEDING THREE YEARS														
	Commission Minimum Premium Rate % (8)	Profit Commission Maximum Premium Rate % (9)	Minimum and Deposit Premium (10)	Rate of Brokerage % (11)	20		20		20										
					Premiums (12)	Claims (13)	Premiums (14)	Claims (15)	Premiums (16)	Claims (17)									

Date:.....  
.....  
Principal Officer

- NOTES: 1. Read the notes in the Ninth Schedule to the Insurance Regulations and comply.  
 2. With reference to net retention under columns (2) and (3), attach a separate statement of maximum expected loss in respect of each treaty.  
 3. For a quota share treaty, both the percentages and amounts of net retention and maximum treaty limit need to be mentioned.  
 4. Different layers of cover under a non-proportional treaty need to be mentioned separately.  
 5. Under column (7), period for which a treaty is applicable should be stated only if the treaty is for not for twelve months (for General insurance business) or if it is for a specified period (for long-term insurance business).  
 6. Under column (8) and (9), the commission and profit commission rates are required in respect of proportional treaties and minimum and maximum rates in respect of non-proportional treaties.  
 7. Under columns (12) to (17), give the amounts of reinsurance premiums paid and claims recoveries made under the treaty for the preceding three years. In case the estimated reinsurance premium for the current year is expected to be more than 25 per cent higher or lower than the preceding year, give the estimated amount in a separate note stating the reasons for the increase or decrease.

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-7

REINSURANCE TREATIES – PARTICULARS ABOUT BROKERS AND INSURERS PARTICIPATING IN LONG-TERM/GENERAL INSURER BUSINESS INWARD/OUTWARD REINSURANCE\*

(\*Delete whichever is not applicable)

All amounts in millions of Kenya Shillings.  
Year ending 31st December, 20 .....

Name of Insurer.....	BROKER(S)		INSURER(S) PARTICIPATING IN THE TREATY						
	Name	Address	Type of treaty	Name	Address of registered Office	Shareholders' funds	Percentage share in treaty	Since when on your reinsurance programme	If the treaty includes risks outside Kenya also, is it possible to ascertain premium in respect of such risks? If so, please state the basis (11)
(1)	(4)	(5)	(3)	(6)	(7)	(8)	(9)	(10)	(11)

Date: ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-8

PARTICULARS OF INSURANCE BUSINESS NOT COVERED BY ANY REINSURANCE ARRANGEMENT LONG-TERM/GENERAL INSURANCE BUSINESS\* (KENYA BUSINESS/OUTSIDE KENYA BUSINESS)\*

(\* Delete whichever is not applicable)

Name of Insurer: ..... All amounts in Kenya Shillings.  
 Year ending 31st December, 20.....

Class of Business (1)	Sub-Class of Business (2)	MAXIMUM POSSIBLE LOSS IN RESPECT OF ANY ONE		Area/country in which risk is located (5)	Total premium written during the year (6)	Total claims paid during the year (7)	Reasons why reinsurance arrangement was not made (8)
		Risk (3)	Event (4)				

Date: .....  
 .....  
 Principal Officer

- NOTES: 1. Read the notes in the Ninth Schedule to the Insurance Regulations and comply.  
 2. If the information given herein does not pertain to an entire class or sub-class of business, please describe the precise business involved.  
 3. Reinsurance arrangement means reinsurance treaty or facultative placement other than mandatory cessions.



NINTH SCHEDULE—continued

Form INS. 59-9A

STATEMENT OF REINSURANCE PREMIUM LONG-TERM INSURANCE BUSINESS  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS)

(\*Delete whichever is not applicable)

Name of Insurer .....	Class of Business	Year ending 31st December, 20 .....				Total
		Bond Investment	Industrial Life	Ordinary Life	Superannuation	
Serial Number		01	02	03	04	
<b>Inward Reinsurance Premium—</b>						
1 Treaty .....						
2 Facultative .....						
3 Total (1+2) .....						
<b>Reinsurance Premium Ceded to Local Insurers by way of—</b>						
4 Treaty .....						
5 Facultative .....						
6 Total (4+5) .....						
<b>Overseas Insurers by way of—</b>						
7 Treaty .....						
8 Facultative .....						
9 Total (7+8) .....						
10 Total Reinsurance Premium Ceded (6+9)						

All amounts in Kenya Shillings

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-9A—continued

Serial Number	Class of Business	Bond Investment 01	Industrial Life 02	Ordinary Life 03	Superannuation 04	Total
	<i>Mandatory Cessions—</i>					
11	Under Section 145(1) .....					
12	Under Section 145(2) .....					
13	Total (11+2) .....					
14	Cessions to Africa Re .....					
	<i>Total Reinsurance Premium—</i>					
	<i>Inward—</i>					
	for KRC (3+13) .....					
	for Others (3) .....					
15	<i>Outward—</i>					
	for KRC (10+14) .....					
16	for others (10+13+14) .....					

Date: ..... Auditor: ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-9B

[L.N. 51/2011, r. 4.]

STATEMENT OF REINSURANCE PREMIUM GENERAL INSURANCE BUSINESS  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

(\*Delete whichever is not Applicable)

All amounts in Kenya Shillings  
Year ending 31st December, 20 .....

Name of Insurer: .....	Class of Business	Motor Commercial	Personal Accident		Theft			Workmen's Compensation	Medical Insurance	Miscellaneous			Total	
			08	09	Cash in Transit	Fidelity Guarantee	Burglary all risk others			Bond	Crop	Live-stock		Any other
		08		09			10		12			13	14	
	Sub-Class of Business	Motor Commercial 080	Personal Accident and sickness 080	Health 091			100	101	102	110	120	121	122	123
	Inward Reinsurance Premium:													
	—Treaty .....	1												
	—Facultative .....	2												
	Total (1+2)	3												
	Reinsurance Premium ceded to Local Insurance by way of:													
	Treaty .....	4												

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-9B—continued

Class of Business	Motor Commercial	Personal Accident		Theft			Workmen's Compensation	Medical Insurance	Miscellaneous			Total	
		08	09	09	10	11			12	13	14		
	08												
	Motor Commercial												
Sub-Class of Business	080	080	091	091	100	101	102	110		120	121	122	123
Facultative .....	5												
TOTAL (4+5)	6												
Overseas Insurer by way of Treaty ...	7												
Facultative .....	8												
Total (7+8)	9												
Total Reinsurance Premium ceded (6+9) .....	10												
Mandatory Cessions:													
—Under sec. 145(1) .....	11												
—Under sec. 145(2) .....	12												
Total (11-12)	13												

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-9B —continued

Class of Business	Motor Commercial 08	Personal Accident 09		Theft 10			Workmen's Compensation 11	Medical Insurance 12	Miscellaneous 13			Total 14	
		Personal Accident and sickness 080	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risk others 102			Workmen's Compensation 110	Bond 120	Crop 121		Live-stock 122
Sub-Class of Business	Motor Commercial 080												
Cessions to Africa Re.....													
Total Reinsurance Premium:													
Inward													
—For others (3) .....													
Outward													
—For KRC (10+14)													
—For others (10+13+14) .....													

Date: ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-9B

STATEMENT OF REINSURANCE PREMIUM GENERAL INSURANCE BUSINESS  
(KENYA BUSINESS/OUT SIDE KENYA BUSINESS\*)

(\*Delete whichever is not Applicable)

Name of Insurer. ....	All amounts in Kenya Shillings Year ending 31st December, 20 .....													
	Aviation 01		Engineering 02		Fire domestic 03		Fire industrial 04		Liability 05		Marine and transit 06		Motor private 07	
Class of business	Aviation 010	Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof Includ- trial 051	Others 052	Marine Cargo 060	Other Transit 061	Marine Hull 062	Motor Private 070		
<b>Sub-Class of Business</b>														
Inward Reinsurance Premium:														
—Treasury .....	1													
—Facultative .....	2													
—Total (1+2) .....	3													
Reinsurance Premium Code to Local insurers by Way of:														
Treaty .....	4													
Facultative .....	5													
Total (4+5) .....	6													
Overseas Insurers by way of:														
Treaty .....	7													
Facultative .....	8													

[Subsidiary]

NINTH SCHEDULE—continued

Class of business	Aviation 01		Engineering 02		Fire domestic 03		Fire industrial 04		Liability 05			Marine and transit 06			Motor private 07	
	Aviation 010		Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof Industrial 051	Others 052	Marine Cargo 060	Other Transit 061	Marine Hull 062	Motor Private 070			
Total (7+8) .....																
Total Reinsurance Premium Ceded (6+9) .....																
Mandatory cessions:																
—Under sec. 145(1) .....																
—Under sec. 145(2) .....																
—Total(11+12) .....																
Cessions to Africa Re .....																
Total Reinsurance Premium Inward:																
—For KRC. (3+3) .....																
Outward																
—For KRC.(10+14) .....																
—For others (10+13+14) ....																

Date: ..... Auditor ..... Principal Officer

NOTE: Read note in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-10A

STATEMENT OF COMMISSION LONG-TERM INSURANCE BUSINESS  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

(\*Delete whichever is not applicable)

Name of Insurer ..... All amounts in Kenya Shillings.  
Year ending 31st December, 20 .....

Serial Number	Class of Business	Year ending 31st December, 20 .....				Total
		Bond Investment 01	Industrial Life 02	Ordinary Life 03	Superannuation 04	
1	Commission in Respect of Direct Business					
2	Inward Reinsurance Business					
3	—Treaty .....					
4	—Facultative .....					
	Total (2+3) .....					
5	Mandatory Cessions					
6	—Under Section 145 (1) .....					
7	—Under Section 145 (2) .....					
	Total (5+6) .....					
8	Outward Reinsurance Business					
9	—Local-treaty .....					
10	—Facultative .....					
	Total (8+9) .....					



NINTH SCHEDULE—continued

Serial Number	Class of Business	Bond Investment	Industrial Life	Ordinary Life	Superannuation	Total
		01	02	03	04	
11	Overseas—treaty .....					
12	—Facultative .....					
13	—Total (11+12) .....					
14	Total (10+13) .....					
	<i>Net Business</i>					
15	—KRC (1+4+7-14) .....					
16	—Others (1+4-7-14) .....					

..... Date ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-10B

[L.N. 51/2011, Section 4.]

STATEMENT OF COMMISSION GENERAL INSURANCE BUSINESS  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

(\*Delete whichever is not Applicable)

Name of Insurer: ..... All amounts in Kenya Shillings.  
Year ended 31st December, 20.....

Class of Business	Aviation 01		Engineering 02		Fire Domestic 03		Fire Industrial 04		LIABILITY 05			MARINE AND TRANSIT 06			Motor Private 07		Medical Insurance 08
	Aviation 010	Others 020	Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof Industrial 051	Others 052	Marine Cargo 053	Other Transit 060	Marine Hull 061	Motor Private 079	Medical Insurance 08			
Commission in Respect of:																	
1 Direct Business .....																	
Inward Reinsurance Business:																	
2 —Treaty .....																	
3 —Facultative .....																	
4 Total (2+3) .....																	
Mandatory Cessions:																	
5 —Under sec. 145(1) .																	
6 —Under sec. 145(2) .																	
7 Total (5+6) .....																	

NINTH SCHEDULE, FORM INS. 59-10B—continued

Class of Business	Aviation 01		Engineering 02		Fire Domestic 03		Fire Industrial 04		LIABILITY 05			MARINE AND TRANSIT 06			Motor Private 07		Medical Insurance 08	
	Aviation 010		Car 020	Others 021	Fire Domestic 030	Fire Industrial 040	Products Liability 050	Prof Industrial 051	Others 052	Marine Cargo 053	Other Transit 060	Marine Hull 061	Motor Private 079		Medical Insurance 08			
Sub-Class of Business																		
Outward Reinsurance Business:																		
—Local-Treaty .....	8																	
—Local-Facultative ..	9																	
Total (8+9) .....	10																	
Overseas—Treaty .....	11																	
Overseas—Facultative	12																	
Total (11+12) .....	13																	
Total (10+13) .....	14																	
—Net Business:	15																	
—KRC (1+4+7+14) }																		
—Others (1+4-7-14) }																		

Date: ..... Auditor ..... Principal Officer

NOTE: Read note in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-10B—continued  
 STATEMENT OF COMMISSION GENERAL INSURANCE BUSINESS  
 (KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

All amounts in Kenya Shillings.

Name of Insurer	Class of Business	Motor Commercial 08	PERSONAL ACCIDENT 09			THEFT 10		Workmen's Compensation 11	MISCELLANEOUS 12			Total 13
			Personal Accident and sickness 080	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risk and others 102		Bond 120	Crop 121	Live-stock 122	
	Sub-Class of Business	Motor Commercial 080										
	Commission in Respect of:											
	1 Direct Business											
	Inward Reinsurance Business:											
	—Treaty											
	—Facultative											
	Total (2+3)											
	Mandatory Cessions:											
	5 —Under sec. 145(1)											
	6 —Under sec. 145(2)											
	7 Total (5+6)											
	Outward Reinsurance Business:											
	8 —Local Treaty											
	9 —Local Facultative											
	10 Total (8+9)											

NINTH SCHEDULE, FORM INS. 59-10B —continued

Class of Business	Motor Commercial 08	PERSONAL ACCIDENT 09			THEFT 10		MISCELLANEOUS 12			Total 13
		Personal Accident and sickness 080	Health 091	Cash in Transit 100	Fidelity Guarantee 101	Burglary all risk and others 102	Bond 120	Crop 121	Live-stock 122	
Sub-Class of Business	Motor Commercial 080									
—Overseas-Treaty .....	11									
—Overseas-Facultative ...	12									
Total (11+12) .....	13									
Total (10+13) .....	14									
—Net Business:	15									
—KRC (1+4+7+14) }										
—Others (1+4-7-14) }										

.....  
Date: ..... Auditor ..... Principal Officer

NOTE: Read the notes in the Ninth Schedule to the Insurance Regulations and comply.

Insurance

[Subsidiary]

NINTH SCHEDULE—continued

Form INS. 59-11

STATEMENT OF LONG-TERM INSURANCE BUSINESS  
(INDIVIDUAL/GROUP INSURANCES\*)  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

(\*Delete whichever is not applicable)

All amounts in thousands of Kenya Shillings.  
Year ending 31st December, 20 .....

Name of Insurer: .....

CLASS OF BUSINESS	NEW LIFE INSURANCE BUSINESS IN RESPECT OF WHICH PREMIUM HAS BEEN PAID IN THE YEAR				TOTAL LIFE INSURANCE BUSINESS IN FORCE AT THE END OF THE YEAR				
	NUMBER OF		Sums Insured	Single premium	Yearly renewal premium Income	NUMBER OF		Sums Insured (Inclusive of accrued bonuses)	Yearly renewal premium (9)
	Policies (1)	Lives (2)				Annuities per annum (3)	(4)		
Bond Investment .....									
Industrial Life .....									
Ordinary Life .....									
Superannuation—Permanent .....									
—Health .....									
—Others .....									
TOTAL .....									

Date: ..... Principal Officer

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-11—continued

- NOTE:
1. Read the notes in the Ninth Schedule to the Insurance Regulation and comply.
  2. Separate statements to be submitted in respect of individual business and group insurances.
  3. Columns (2) and (7) in respect of number of lives are relevant only for group policies.
  4. Single premiums under column (4) should include consideration for immediate or deferred annuities and all other premiums paid during the year where no subsequent premium is payable.
  5. Premiums in column (4), (5) and (9) should represent gross direct premiums before deduction/addition of reinsurance premium.

Form INS. 59-12

SUMMARY OF CHANGES IN BUSINESS – BOND INVESTMENT/INDUSTRIAL LIFE/ORDINARY LIFE/SUPERANNUATION\*  
(KENYA BUSINESS/OUTSIDE KENYA BUSINESS\*)

(\*Delete whichever is not applicable)

Name of Insurer ..... All amounts in thousands of Kenya Shillings.  
Year ending 31st December, 20 .....

	INDIVIDUAL BUSINESS			GROUP BUSINESS			
	Number of Policies	Sum Insured	Reversionary Bonus	NUMBER OF		Sum Insured	Reversionary Bonus
				Policies	Lives		
1. Business at the beginning of the year .....							
INCREASE DURING THE YEAR							
2. New business written .....							
3. Old policies revived .....							
4. Old policies changed and increased .....							
5. Bonus additions allotted .....							
A. TOTAL INCREASE (2+3+4+5) .....							
DECREASE DURING THE YEAR							
6. By death .....							

[Subsidiary]

NINTH SCHEDULE, FORM INS. 59-12—continued

	INDIVIDUAL BUSINESS			GROUP BUSINESS			
	Number of Policies	Sum Insured	Reversionary Bonus	NUMBER OF		Sum Insured	Reversionary Bonus
				Policies	Lives		
7. By Maturity .....							
8. By expiry term under temporary insurances .....							
9. By surrender of policy .....							
10. By forfeiture or lapse .....							
11. By being not taken up .....							
12. By surrender of bonus .....	( )						
11. By change and decrease .....	( )						
B. TOTAL DECREASE (6 to 13) .....							
C. TOTAL EXISTING AT THE END OF YEAR (1+A-B) ..							

Date: .....  
 .....  
 Principal Officer

- NOTES: 1. Read the notes in the Ninth Schedule to the Insurance Regulations and comply.  
 2. Separate statements shall be submitted in respect of each class of business and in each case separate statements be prepared for the Kenya business and outside Kenya business.  
 3. Numbers of policies and lives given in brackets ( ) against items (4), (5), (12) and (13) should not be included in the totals at A, B and C.  
 4. Only the amounts of increase or decrease in sums insured or bonus should be shown under the respective columns against items (4) and (13) respectively.



TENTH SCHEDULE

[Section. 70 and Rule 21, L.N. 57/2012, s 17.]

PART A – LIMITATION OF EXPENSES OF MANAGEMENT

LONG TERM INSURANCE BUSINESS OTHER THAN INDUSTRIAL LIFE ASSURANCE BUSINESS

1. In the case of long term insurance business other than industrial life assurance business, the limits of management expenses including commissions to intermediaries are as follows:

The aggregate sum of—

- (i) five percentum of all premiums received during the year on policies granting an immediate annuity or a deferred annuity in consideration of a single premium, and five percentum of all premiums received on other single premium policies during the year;
- (ii) ten percentum of all first year's premiums and four percentum of all renewal premiums received during the year on policies granting deferred annuity in consideration of more than one premium;
- (iii) fifteen percentum of all premiums received during the year on policies under group life and superannuation schemes;
- (iv) one tenth of one percentum of the average of the total sums assured by policies on which no further premiums are payable (less reinsurances) at the beginning and end of the year;
- (v) five percentum of all annuities paid during the year;
- (vi) an amount computed on the basis of the percentages for the time being appropriate to the duration of the insurer's life insurance business specified in the following table, namely:

<i>Duration of Business</i>	PER CENTAGE OF PREMIUMS LESS REINSURANCES RECEIVED DURING THE YEAR OTHER THAN PREMIUMS REFERRED TO IN ITEMS (i), (ii) AND (iii) ABOVE	
	<i>of First Year's Premiums</i>	<i>of Renewal Premiums</i>
First Four Years .....	100	30
Fifth to Seventh Years .....	97½	27½
Eighth to Tenth Years .....	95	25
After the Tenth Year if the Insurers Business in Force		
(a) Is less than two hundred million shillings .....	90	25
(b) Is less than five hundred million shillings but not less than two hundred million shillings .....	90	24
(c) Is less than one thousand million shillings but not less than five hundred million shillings .....	90	23
(d) Is not less than one thousand million Shillings .....	90	22½

*Explanation 1*—In this Rule, “**business in force**” means, in relation to any expense incurred, the total sum assured, with bonuses, without taking into account reinsurances ceded or accepted, by an insurer in respect of the whole of his life insurance business on the last working day of the year preceding the calendar year in which the expense is incurred.

## Insurance

[Subsidiary]

TENTH SCHEDULE—*continued*

*Explanation II*—The duration of an insurer's life insurance business shall be reckoned

- (a) from the beginning of the calendar year of commencement of the business if the date of commencement is in the first half of the year; and
- (b) from the end of the calendar year of such commencement if the date of commencement is in the second half of the year.

2. *Industrial Life Assurance Business*—In the case of industrial life assurance business, the limits of management expenses including commission to intermediaries are as follows—

- (a) Where the insurer has transacted business in Kenya for not more than five years, the sum of fifty five percentum of premiums received during the year;
- (b) Where the insurer has transacted business in Kenya for more than five years, the sum of forty five percentum of premiums received during the year:

Provided that where the total premium income does not exceed ten million shillings, the amounts indicated at paragraphs (a) and (b) shall be increased by ten percentum.

3. *General Insurance Business*—In the case of general insurance business, the limits of management expenses including commissions or other remuneration for the procurement of business are as follows—

- (a) the amount of commission or other remuneration paid to insurance agents and brokers in respect of that business transacted in the year but not exceeding the limit prescribed in the Eleventh Schedule under regulation 22; plus
- (b) an amount computed according to the following table:

<i>Part of the Total Gross Premium Income of the Insurer written direct</i>	PER CENTAGE OF PREMIUMS APPLICABLE TO INSURER WRITING GENERAL INSURANCE BUSINESS FOR		
	<i>More than 5 years</i>	<i>5 Years or Less with gross Premium</i>	
		<i>Sh. 25m or more</i>	<i>Less than Sh. 25m</i>
First 5 Million Shillings .....	25%	25%	35%
Next 7.5 Million Shillings .....	22½%	22½%	32½%
Next 7.5 Million Shillings .....	20%	20%	30%
Next 10 Million Shillings .....	17½%	17½%	27½%
The Balance .....	15%	15%	25%

4. In the case of Kenya Reinsurance Corporation or any other insurer doing only reinsurance business the limits of management expenses, excluding commission, shall be an amount not exceeding ten percentum of the total net premium income.

TENTH SCHEDULE—continued

FORM INS 70-1

MAXIMUM PERMITTED EXPENDITURE: LONG TERM INSURANCE OTHER THAN INDUSTRIAL LIFE INSURANCE

All amounts in Kenya Shillings.

Name of Insurer: ..... Year Ending 31st December, 20 .....

	BUSINESS IN KENYA		TOTAL BUSINESS	
	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>
	(1)	(2)	(3)	(4)
1. <i>Five percentum</i> : of all premiums received during the year on policies granting an immediate annuity or a deferred annuity in consideration of single premium.....				
2. <i>Five percentum</i> : of all premiums received on single premium policies other than those referred to in (1) above				
3. <i>Ten percentum</i> : of all first year's premium received during the financial year on policies granting deferred annuity in consideration of more than one premium .....				
4. <i>Four percentum</i> : of all renewal premium received during the financial year on policies granting deferred annuity in consideration of more than one premium				
5. <i>Fifteen percentum</i> : of all premiums received during the year on policies under Group Life and Superannuation Schemes .....				
6. <i>One-tenth of one percentum</i> : of the average of the total sums assured by policies on which no further premiums are payable (less reinsurance) at the beginning and end of the year.....				
7. <i>Five percentum</i> : of all annuities paid during the year .....				
8. (i) In the case of an insurer who has transacted long term insurance business for more than five years ...				
(a) 100% of first year's premiums received during the year.....				
(b) 30% of renewal premiums received during the year.....				
(ii) In the case of an insurer who has transacted long term insurance business for more than five years but less than eight years .....				
(a) 97½% of first year's premiums received during the year .....				

Insurance

[Subsidiary]

TENTH SCHEDULE, Form No. INS. 70-1—continued

	BUSINESS IN KENYA		TOTAL BUSINESS	
	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>
	(1)	(2)	(3)	(4)
(b) 27½% of renewal premiums received during the year.....				
(iii) In the case of insurer who has transacted long term insurance business for more than eight years but less than ten years .....				
(a) 95% of first year's premium received during the year.....				
(b) 25% of renewal premium received during the year.....				
(iv) In the case of an insurer who has transacted long term insurance business for ten years or more if the insurer's business in force .....				
(a) Is less than two hundred million shillings .....				
— 90% of first year's premium received during the year .....				
— 25% of renewal premium received during the year .....				
(b) Is less than five hundred million shillings but not less than two hundred million shillings.....				
— 90% of first year's premium received during the year .....				
— 24% of the renewal premium received during the year .....				
(c) is less than one thousand million shillings but not less than five hundred million shillings.....				
— 90% of first year's premiums received during the year .....				
— 23% of the renewal premiums received during the year .....				
(d) is not less than one thousand million shillings .....				
— 90% of first year's premiums received during the year .....				

Insurance

[Subsidiary]

TENTH SCHEDULE, Form No. INS. 70-1—continued

	BUSINESS IN KENYA		TOTAL BUSINESS	
	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>
	(1)	(2)	(3)	(4)
— 22½ % of renewal premiums received during the year .....				
<i>Note</i> —Premiums referred to in para (b) are other than the premium referred to in paragraphs (1), (2), (3), (4) and (5)				
TOTAL (1)+(2)+(3)+(4)+(5)+(6)+(7)+(8)				

Date

Auditor

Principal Officer

- NOTE:
1. In columns (1) and (3), indicate the amounts of premiums or sums assured referred to in the description.
  2. The amounts in columns (2) and (4) shall be arrived at by applying the respective per centages to the amounts in column (1) and (3) respectively.

FORM INS 70-2

MAXIMUM PERMITTED EXPENDITURE: INDUSTRIAL LIFE INSURANCE BUSINESS

All amounts in Kenya Shillings.

Name of Insurer: ..... Year Ending 31st December, 20 .....

	BUSINESS IN KENYA		TOTAL BUSINESS	
	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>	<i>Premiums or Sums Assured</i>	<i>Permitted Amount</i>
	(1)	(2)	(3)	(4)
Where the insurer has transacted industrial life insurance business				
(a) for five years or less;				
—55%* of premiums received during the year.....				
(a) for more than five years				
—45% of premiums received during the year.....				

Date

Auditor

Principal Officer

\*In case the premium income does not exceed Sh. 10 million, the above per centages shall be increased to

- 65% and
- 55% respectively.

Insurance

[Subsidiary]

TENTH SCHEDULE—continued

FORM INS 70-3

[L.N. 57/2012, s. 17.]

MAXIMUM PERMITTED EXPENDITURE: GENERAL INSURANCE BUSINESS

All amounts in Kenya Shillings

Name of Insurer ..... Year ended 31st December, 20 .....

			KENYA BUSINESS	TOTAL BUSINESS
	Premiums (1)	Premiums Amount (2)	Premiums (3)	Permitted Amount (4)
1. Gross premiums income written direct				
2. Actual amount of commission or other remuneration paid to insurance agents and brokers on procurement of business in the year but not exceeding the limits prescribed in Regulation 21 .....				
3. 25% of first 5 million multiplied by CPI (n) factor of gross direct premium income .....				
4. 22% of next 7.5 million multiplied by CPI (n) factor of gross direct premium income .....				
5. 20% of next 7.5 million multiplied by CPI (n) factor of gross direct premium income .....				
6. 17½% of next 10 million multiplied by CPI (n) factor of gross direct premium income .....				
7. 15% of the balance of gross premium income .....				
8. Sub-Total (3)+(4)+(5)+(6)+(7)				
9. In the case of an insurer who has transacted general insurance business in Kenya for less than 6 years, 5% of such gross direct premium .....				

TENTH SCHEDULE—continued

Form INS 70-3A

[L.N. 51/2011, s. 5.]

STATEMENT OF MAXIMUM PERMITTED AND ACTUAL COMMISSION OUTGO ON DIRECT BUSINESS GENERAL INSURANCE BUSINESS

Name of Insurer: ..... Year ending 31st December, 20 ..... All Amounts in Kenya Shillings.

Serial Number (1)	Class of Business (2)	KENYA BUSINESS				OUTSIDE BUSINESS		(7)+(9) (10)	
		Gross Direct Written Premium (3)	Maximum Permitted Commission		Actual Commission Outgo (6)	Amount which is Lower of (5) & (6) (7)	Gross Direct Written Premium (8)		Actual Commission Outgo (9)
			% (4)	Amount (5)					
01	Aviation .....		10						
02	Engineering .....		20						
03	Fire-Domestic .....		20						
04	Fire-Industrial .....		25						
05	Liability .....		20						
06	Marine-Hull .....		10						
	Marine-Cargo .....		17½						
	Marine-Cargo and Others .....		17½						
07	Motor-Private .....		10						
08	Motor-Commercial .....		10						
09	Personal Accident .....		20						

Insurance

[Subsidiary]

TENTH SCHEDULE, FORM INS. 70-3A—continued

Serial Number (1)	Class of Business (2)	KENYA BUSINESS				OUTSIDE BUSINESS			(7)+(9) (10)
		Gross Direct Written Premium (3)	Maximum Permitted Commission		Actual Commission Outgo (6)	Amount which is Lower of (5) & (6) (7)	Gross Direct Written Premium (8)	Actual Commission Outgo (9)	
			% (4)	Amount (5)					
10	Theft .....		10						
11	Workmen's Compensation .....		20						
12	Medical Insurance .....								
13	Miscellaneous .....		10						
	TOTAL .....								

..... Date ..... Auditor ..... Principal Officer

NOTE: Commission shall include brokerage fee or other remuneration paid to an intermediary.



Insurance

[Subsidiary]

TENTH SCHEDULE—continued

FORM INS 70-4

MAXIMUM PERMITTED EXPENDITURE: REINSURANCE COMPANY

All amounts in Kenya Shillings.

Name of Insurer: ..... Year ending 31st December, 20 .....

		Long term Insurance Business (1)	General Insurance Business (2)	Total (1+2) (3)
Total Net Premium .....	1			
Ten Per cent of (1) .....	2			

.....  
Date Auditor Principal Officer

ELEVENTH SCHEDULE

[L.N. 108/2002, s. 7, L.N. 59/2011, s. 6, L.N. 57/2012, s. 18, s. 73(2) and Regulation 22.]

MAXIMUM BROKERAGE, COMMISSION OR OTHER INTERMEDIARY

PROCURATION FEES PAYABLE

A. Long term Insurance Business

In the case of long term insurance business, where a rate of premium is approved by an actuary in respect of any class of policy, the insurer shall not, except with the approval of an actuary, pay or allow in respect of any policy of that class a commission or rebate at a rate greater than the maximum rate of commission or rebate to which the first-mentioned actuary had regard when approving the rate of premium, but in any case the rates of commission shall not exceed the limits given below.

1. Bond Investment Business

Annual premium policies .....	4%	of first year's premium.
	2%	of renewal premium.
Single premium policies .....	2%	of premium.

2. Industrial Life Business

Weekly premium .....	30%	first year.
Weekly premium .....	25%	renewals.
Monthly premium .....	15%	first year.
Monthly premium .....	10%	renewals.
Other premium .....	10%	first year.
Other premium .....	7%	renewals.

3. Ordinary Life Business (Individual Life Policies)

Term and Temporary Assurances .....	10%	of premium up to maximum of 10 years.
All other assurance covers .....	50%	of first year's premium.

Insurance

[Subsidiary]

ELEVENTH SCHEDULE—*continued*

	20%	of second year's premium.
	5%	of 3 <sup>rd</sup> to 10 <sup>th</sup> year's renewal premium.
Single premium policies .....	2%	of the premium.
4. SUPERANNUATION BUSINESS (INCLUDING GROUP LIFE POLICIES)		
Endowment Assurances .....	50%	of first year's premium.
Whole Life Assurances .....	2½%	of renewal premium.
Deferred Annuity and pure endowment .....	4%	of first year's premium.
	2%	of renewal premium
Immediate Annuities .....	2%	of consideration.
Term Assurances .....	8%	of premium.
Single premium policies and annuities .....	2%	of premium.
Deposit Administration .....	1%	procuration commission on amounts deposited in the first year by a new client.

B. GENERAL INSURANCE BUSINESS

<i>Serial Number</i>	<i>Class of Business</i>	<i>Per centage of premium</i>
01	Aviation .....	10%
02	Engineering Insurance .....	20%
03	Fire-Domestic .....	20%
04	Fire-Industrial .....	25%
05	Liability .....	20%
06	Marine-Cargo and other transit .....	17.5%
	Marine Hull .....	10%
07	Motor-Private .....	10%
08	Motor-Commercial .....	10%
09	Personal Accident .....	20%
10	Theft .....	20%
11	Workmen's Compensation .....	20%
12	Micro-Insurance .....	10%
13	Medical Insurance.....	10%
14	Miscellaneous .....	10%

[L.N. 108/2002, s. 7, L.N. 51/2011, s. 6, L.N. 57/2012, s.18.]

TWELFTH SCHEDULE

[S. 88(1) and Regulation 24.]

RULES FOR ASCERTAINING THE AMOUNT OF A PAID UP POLICY

1. In respect of any policy (other than a policy for the whole term of life where the premiums are payable throughout life), on which the maximum number of annual premiums payable is fixed and premiums are of uniform amount, the paid up sum assured, exclusive of bonus additions, shall be the sum which bears to the original sum insured the same proportion as the number of complete month's premiums which have been paid on the policy bears to the number of months premium originally payable.

[Subsidiary]

2. In respect of any policy for the whole term of life (where the premiums are payable throughout life), the paid up sum assured, exclusive of bonus additions, shall be a sum bearing the same proportion to the value of the policy as the sum of one shilling bears to the present value (at the attained age of the person whose life is insured) of the reversion in the sum of one shilling according to the contingency upon which the sum insured under the original policy was payable.

3. If it is the practice of an insurer to permit paid up policies to participate in profits and if the insurer's actuary is of the opinion that the paid up value arrived at by the application of rule 1 or 2 of this Schedule should be reduced suitably, it may be so done with the approval of the Commissioner of Insurance.

4. (1) For the purpose of rule 2, the value of the policy shall be the difference between the present values (at the attained age of the person whose life is insured) of—

- (a) the reversion in the sum insured according to the contingency upon which it is payable; and
- (b) the future net premiums.

(2) "Net premium" as used in subrule (1)(b) means such premium, exclusive of any addition for bonuses, office expenses and other charges, as is sufficient (according to the rate of interest and rates of mortality assumed and on the assumption that the age of the person whose life is insured is the age at his birthday next following the date one year after the date of the issue of the policy) to provide for the risk incurred by the insurer in issuing the policy.

5. (1) For the purpose of this scheme, the calculations shall be made as at the day immediately preceding that on which the first premium which has not been paid falls, or fell due.

(2) For the purposes of this Rule, any premium which has not been paid in cash and which is deemed to be a debt owing to the insurer shall be deemed to have been paid.

6. For the purposes of rules 2 and 4—

- (a) interest shall be assumed at the rate of 3½ percentum per annum;
- (b) the rates of mortality shall be assumed, in the case of an ordinary life policy, according to the ultimate table of mortality included in the tables published for the Institute of Actuaries in England and Faculty of Actuaries in Scotland under the title "A 1949-52 Tables for Assured Lives" and, in the case of a policy of industrial life assurance, according to the ultimate table of mortality included in the tables published for the Institute of Actuaries in England and the Faculty of Actuaries in Scotland under the short title "A 1924-29 Table".

7. There shall be added to the amount (exclusive of bonus additions) of any paid up policy calculated in accordance with rule 1 or rule 2, the amount of all reversionary bonuses declared upon (and still attaching to) the original policy.

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#### THIRTEENTH SCHEDULE

[S. 89(3) and Regulation 25.]

##### RULES FOR ASCERTAINING THE SURRENDER VALUE OF A POLICY

1. The surrender value of a policy at any date shall be the present value (according to the contingency upon which the policy is payable) of the amount of the paid up policy which would be granted as at that date, determined according to the rules prescribed in the Twelfth Schedule or the amount payable at death if death were to occur at the date as at which the surrender value is calculated, whichever is the less.

Insurance

[Subsidiary]

2. For the purposes of determining the present value of the amount of paid up policy under rule 1—

- (a) interest shall be assumed at the rate of 6½ per centum per annum for contracts registered in terms of the Income Tax Act (Cap. 470) and 5 per centum per annum for all other contracts;
- (b) the rate of mortality shall be assumed, in the case of an ordinary life policy, according to the ultimate table of mortality included in the tables published for the Institute of Actuaries in England and Faculty of Actuaries in Scotland under the title "A 1949-52 Tables for Assured Lives" and in the case of a policy of industrial assurance, according to the ultimate table of mortality included in the tables published for the Institute of Actuaries in England and Faculty of Actuaries in Scotland under the short title "A 1924-29 Table"; and
- (c) in the case of a policy issued for a term other than the whole term of life, the remaining term at the date as at which the surrender value of the policy is calculated shall be obtained by deducting from the original term of the policy the duration of the policy in completed years and months at that date.

FOURTEENTH SCHEDULE

[S. 111(1) and Regulation 29.]

FORM No. INS. 111

FORM OF APPOINTMENT WHERE NOMINEE IS MINOR

I, ..... son/daughter  
(Name in full)

of ..... of  
(Name of father)

..... the holder of  
(Address of person making appointment)

ordinary life assurance policy no. ....  
appoint ..... of .....  
(Name of appointee) (Address of appointee)

son/daughter of ..... as the person  
to receive the money secured thereby in the event of my death during the minority of my nominee  
..... (Name of nominee)

of ..... son/daughter of .....  
(Address of nominee)

Signed at ..... this ..... day of ....., 20 .....

Witness .....  
(Signature) (Signature of holder of Policy)

Name .....

Address .....

I, ..... the above named  
(Name in full)

[Subsidiary]

FOURTEENTH SCHEDULE, FORM INS. 111—continued

appointee hereby signify my consent to be appointed as aforesaid and to hold the moneys payable under the aforesaid Policy No. ....for the benefit of

(Name of minor nominee)

Witness .....

(Signature of appointee)

(Name)

Date .....

(Address)

FIFTEENTH SCHEDULE

[Regulations 32 and 33, L.N. 349/1987, s. 2, L.N. 372/1995, s. 2, L.N. 169/1998, s. 2, L.N. 172/1999, s. 2, L.N. 40/2004, s. 2, L.N. 99/2006, s. 2, L.N. 154/2010, s. 2, L.N. 51/2011, s. 7.]

MANDATORY REINSURANCE CESSIONS

PART A – GENERAL INSURANCE BUSINESS

1. For the purposes of section 145(1) of the Act, every insurer shall reinsure with the Corporation 20 per cent (twenty per cent) of each policy of general insurance issued or renewed in Kenya by the insurer:

Provided that this per centage shall be reduced by 5 per cent (five per cent) every year thereby ceasing to apply on the 1st January, 2000.

[L.N. 372/1995, s. 2.]

2. The premium payable by an insurer to the Corporation in respect of cessions made to the Corporation shall be a pro-rata share of the premium actually received or receivable by the insurer from the insured, on the risk re-insured without any deductions whatsoever.

3. Liability of the Corporation in respect of the prescribed percentage of each policy re-insured with the Corporation shall commence simultaneously with that of the ceding insurer.

4. Every insurer shall, other than for motor insurance and marine insurance businesses, render to the Corporation quarterly statement of account within 60 days of the last day of March, June, September and December of each year in such form as the Corporation may require.

5. In the case of motor insurance business, every insurer shall render to the Corporation not later than the 15th day of each month statements of account of all business written as motor insurance in the preceding month in such form as the Corporation may require.

6. (a) In the case of marine insurance business, every insurer shall render to the Corporation on Wednesday of each week declarations of liability accepted in the preceding week of all the business written as "marine cargo insurance" and such declaration shall be produced by the insurers concerned in such form as the Corporation may require.

**[Subsidiary]**

(b) In addition every insurer shall advise the Corporation immediately of any shipment or transit or known accumulation at any one location where the Corporation's liability reaches a certain limit which shall be notified to the insurers by the Corporation. The manner in which insurers will advise the Corporation shall be in such form as the Corporation may require.

7. In the case of marine insurance business, every insurer shall render to the Corporation quarterly statements of account within 45 days of the last day of March, June, September and December of each year in such form as the Corporation may require.

8. (a) Settlements of quarterly account in the case of insurance business other than motor insurance business shall be made at the time of rendering the accounts to the Corporation.

(b) Where an account shows a balance in favour of an insurer, the Corporation shall settle such an account within 7 days of confirmation of the account by the Corporation which shall in either case be within one month of receipt of the accounts.

9. The settlement of monthly accounts in respect of motor insurance business shall be made at the time of rendering an account to the Corporation and where the account shows a balance in favour of the insurer the Corporation shall settle such an account within 7 days of confirmation of the account by the Corporation which shall in either case be within one month of the receipt of the accounts.

10. The Corporation shall pay the insurer a reinsurance commission at the following rates expressed as per centages of the premiums payable by the insurer:

<i>Serial Number</i>	<i>Class of Business</i>	<i>Reinsurance Commission Rate</i>
01	Aviation-Aircrew personal accident insurance .....	22½%
	Aviation-others .....	15%
02	Engineering .....	25%
03	Fire-Domestic .....	30%
04	Fire-Industrial .....	30%
05	Liability .....	25%
06	Marine-Cargo and other transit .....	22½%
	Marine-Hull .....	15%
07	Motor-Private .....	15%
08	Motor-Commercial .....	15%
09	Personal Accident .....	25%
10	Theft .....	25%
11	Workmen's compensation .....	25%
12	Medical Insurance	
13	Miscellaneous	
	Bonds .....	15%
	Others .....	25%

[L.N. 51/2011, s. 7.]

11. For the purposes of section 145(2) of the Act, every insurer shall, with effect from 1st January, 1999 reinsure with the Kenya Reinsurance Corporation eighteen per cent (18%) of each of his reinsurance treaties in respect of general business placed in the international reinsurance market:

Provided that this requirement shall cease to apply on 31st December, 2015 or on the date the Kenya Reinsurance Corporation Limited is privatized, whichever is earlier.

[L.N. 169/1998, s. 2, L.N. 172/1999, s. 2, L.N. 40 of 2004, s. 2, L.N. 99 of 2006, s. 2, L.N. 154/2010, s. 2.]

12. Every insurer shall submit to the Corporation copies of all its reinsurance treaties relating to its general insurance business which are in force at the commencement of these Regulations and those to be issued in future and any amendment thereto.

#### PART B – LONG TERM INSURANCE BUSINESS

1. For the purposes of section 145(1) of the Act, every insurer shall reinsure with the Corporation 20% (twenty per cent) of each policy of long term insurance issued in Kenya by the insurer:

Provided that this per centage shall be reduced by 5 per cent (five per cent) every year thereby ceasing to apply on the 1st January, 2000.

2. In respect of any policy of endowment insurance or whole-life insurance or an allied class of insurance, the cessions under paragraph 1 shall be on a risk premium basis in accordance with the risk premium rates determined by the Corporation: the manual of risk premium rates and the table of amounts at risk shall be determined by the Corporation not less than three months prior to the date from which they are to be applied.

3. In respect of any other policy, the cessions under paragraph 1 shall be on the basis of the original terms of the policy, and the premium payable by an insurer to the Corporation shall be pro-rata share of the premium actually received or receivable by the insurer from the insured, on the risk reinsured, without any deduction whatsoever.

4. The liability of the Corporation in respect of the prescribed per centage of each policy reinsured with the Corporation shall commence simultaneously with that of the ceding insurer.

5. For the purposes of section 145(2) of the Act, every insurer shall reinsure with the Kenya Reinsurance Corporation every policy of long term insurance issued in Kenya on the following basis—

- (i) in respect of any policy already issued or issued hereafter and which is subject to reinsurance on risk premium basis, eighteen (18%) per cent of the excess after the ceding company's net retention on the same terms and conditions offered to the most favoured reinsurer in such reinsurance with effect from 1 January, 1999:

Provided that this requirement shall cease to apply on 31st December, 2015 or on the date the Kenya Reinsurance Corporation Limited is privatized, whichever is earlier.

- (ii) in respect of any policy issued after 1st April, 1979 and which is subject to reinsurance on original terms eighteen (18%) per cent of the excess after the ceding company's net retention on the same terms and conditions offered to the most favoured reinsurer in such reinsurance with effect from 1st January, 1999:

Provided that this requirement shall cease to apply on the 31st December, 2015 or on the date the Kenya Reinsurance Corporation Limited is privatized, whichever is earlier.

[L.N. 169/1998, s. 2, L.N. 172/1999, s. 2, L.N. 40/2004, s. 2, L.N. 99/2006, s. 2, L.N. 154/2010, s. 2.]

6. For the purpose of section 145(2) of the Act, every insurer shall reinsure with the Corporation every policy of long term insurance issued in Kenya on the following basis—

- (i) in respect of any policy already issued or issued hereafter and which is subject to reinsurance on risk premium basis, 25 (twenty-five) per cent of the excess after the ceding company's net retention on the same terms and conditions offered to the most favoured reinsurer in such reinsurance; and
- (ii) in respect of any policy issued after the 1st April, 1979, and which is subject to reinsurance on original terms, 25 (twenty-five) per cent of the excess after the ceding company's net retention on the same terms and conditions offered to the most favoured reinsurer under such reinsurance.

[Subsidiary]

7. Every insurer shall render to the Corporation not later than the 15th day of each month statements of mandatory cessions in such form as the Corporation may require. In respect of policies insuring substandard lives and those having sums insured in excess of a certain amount on any one life as may be indicated by the Corporation, the statements shall be required to be rendered separately in such form and within such time limit as may be required by the Corporation.

8. The Corporation shall be informed at least 30 days before any proposed alteration in the terms of reinsurance treaties including the levels of a ceding company's net retention (that is, liability after all reinsurances including compulsory cession) are to be put into effect.

9. Unless the Corporation agrees to any other arrangement, every insurer shall render to the Corporation quarterly statements of account within 60 days of the last day of March, June, Sept-ember and December of each year in such form as the Corporation may require.

10. Settlements of the quarterly accounts shall be made at the time of rendering the accounts to the Corporation. Where an account shows a balance in favour of the insurer the Corporation shall settle such account within 7 days of confirmation of the account by the Corporation which shall in either case be within one month of receipt of the accounts.

11. Every insurer shall submit to the Corporation copies of its treaties relative to long term insurance business in force and those to be issued in future and any amendments thereto.

[L.N. 349/1987, s. 2.]

PART C – OTHER REINSURANCE BUSINESS

Subject to the provisions of Part A, B and C of this Schedule an insurer may place any other reinsurance with the Corporation on terms mutually acceptable to the Corporation and the insurer.

SIXTEENTH SCHEDULE

FORM No. INS. 150-1

(Rule 34)

APPLICATION FOR \*REGISTRATION/\*RENEWAL OF REGISTRATION OF A BROKER

(\*Delete whichever is not applicable)

All amounts in Kenya Shillings

A. APPLICANT

- 1. Name: .....
- 2. Registered Office: .....
  - Postal Address: .....
  - Telegraphic Address: .....
  - Telex: ..... Telephone: .....
- 3. Location of Offices: .....
  - Principal: .....
    - (Give address) .....
  - Branches at: .....
- 4. Incorporation: .....
  - Place: ..... Date: .....
  - Insurance Broking Business .....
  - Date of first licence .....
  - Date of commencement .....



Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, FORM No. INS. 150-1—continued

5. Particulars of:

- (i) Members of Board of Directors (Appendix A).
- (ii) Principal Officer, Company Secretary and other Senior Management Staff (Appendix B).
- (iii) Departmental staff (Appendix C).
- (iv) Auditors, Legal Advisers and Actuaries (Appendix D).
- (v) Members of insurance industry whose services were availed of during the year (including names of insurers with whom insurance business was placed) (Appendix E).

6. Bankers: .....

Name	Address	Since when
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....

7. (i) Is the applicant or a director or an employee of the applicant a director or employee or shareholder of an insurer or broker or agent or any other member of the insurance industry?  
If so, give details specifying the name of the member, nature and extent of shareholding/interest.
- (ii) Is any of the individuals or firms listed in Appendices D and E—  
(a) a director or employee of the applicant or a related company?  
(b) holding any shares in, debentures of or other interests with the applicant or a related company?  
If the answer to any of the above questions is in the affirmative, give full particulars.

8. Share Capital

Type of Share (1)	Number of Shares (2)	Amount per Share (3)	Total Amount (4)
(a) .....			
(b) .....			
(c) .....			
(d) .....			
Total .....			

B. PAID UP

Type of Share (1)	Number of Share (2)	Amount per Share Sh. (3)	Total Amount (2) x (3) (4)	Total Number of Share-holders (5)	HOLDING BY KENYA CITIZENS, BY KENYA COMPANIES, BY KENYA PARTNERSHIPS, BY THE GOVERNMENT		
					Number of Shares (6)	Total Amount (7)	Proportion of Total Voting Rights (8)
(a) .....							
(b) .....							

Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, FORM No. INS. 150-1—continued

Type of Share  (1)	Number of Share  (2)	Amount per Share Sh.  (3)	Total Amount (2) x (3)  (4)	Total Number of Share-holders  (5)	HOLDING BY KENYA CITIZENS, BY KENYA COMPANIES, BY KENYA PARTNERSHIPS, BY THE GOVERNMENT		
					Number of Shares  (6)	Total Amount  (7)	Proportion of Total Voting Rights  (8)
(c) .....							
(d) .....							
TOTAL .....							

9. Business Particulars:

A. Business carried on/proposed to be carried on—

- (a) Classes of insurance business: .....
- (b) Nature of service provided in respect of insurance business: .....
- (c) Other business: .....

B. Number of Agents: (employed or expected to be employed the next 12 months):

Long term Insurance — \_\_\_\_\_  
 General Insurance — \_\_\_\_\_  
 Total \_\_\_\_\_

Please indicate name(s) of insurer(s) on whose behalf the agents are employed.

10. Date upto which Accounts made up: .....

Date of submission of the Accounts report to the Commissioner: .....

Date of last Annual General Meeting of shareholders: .....

Date of submission of minutes of the Annual General Meeting to the Commissioner: .....

11. Professional Indemnity Insurance:

Insurer: .....

Policy Number: .....

Period from: .....

to: .....

Retroactive date: .....

Limit of Indemnity: .....

(Please enclose a true copy of the policy.)

I hereby certify that the statements contained herein and in the documents submitted herewith required under the Insurance Act and the Insurance Regulations are true and accurate to the best of my knowledge and belief. Any alterations in particulars stated herein or said documents will be promptly communicated to the Commissioner of Insurance.

Signed on this ..... day ....., 20 .....

Principal Officer

[Subsidiary]

SIXTEENTH SCHEDULE—continued  
 APPENDIX A TO FORM NO. INS. 150-1  
 PARTICULARS OF BOARD OF DIRECTORS

Name of Broker: ..... As at 31st December, 20.....

Serial Number	Full Name	Citizenship	Residential Address	Occupation	Date of Appointment	Number of shares held (See note 1 below)	COURT CONVICTION (See NOTE 2 BELOW)			INTEREST IN ANY MEMBER OF INSURANCE INDUSTRY (See ITEM 7(i) OF SIXTEENTH SCHEDULE)		
							(a)	(b)	(c)	Nature of Business	Name	Details of Interest
1. ....												
2. ....												
3. ....												
4. ....												
5. ....												
6. ....												

Date .....  
 .....  
 Principal officer

NOTE: 1. If the shareholding consists of two or more types of shares, details should be given separately of the type, number and total paid-up values of each type of shares. If additional shares are held in the names of any relatives (who are not directors themselves) of the Director, particulars of the same should be given separately.  
 2. Has there been in the past—  
 (a) any conviction of an offence involving fraud or dishonesty?

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX A—continued

- (b) any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors?
  - (c) Finding to be of unsound mind by a court of competent jurisdiction?  
Please state "YES" or "NO" in the above form and if the answer is "YES", give full details separately.
3. If the space herein is insufficient, please use additional paper.

APPENDIX B TO FORM NO. INS. 150-1  
PARTICULARS OF MANAGEMENT STAFF

Name of Broker: ..... As at 31st December, 20 .....

Serial Number	Full Name	Designation	Citizenship	Age	Residential Address	Qualification		Years of Experience	Date of Appointment	Number of shares held (See note 1 below)	COURT CONVICTION (See Note 2 Below)			INTEREST IN ANY MEMBER OF INSURANCE INDUSTRY (See ITEM 7(i) OF SIXTEENTH SCHEDULE)		
						Academic	Professional				(a)	(b)	(c)	Nature of Business	Name	Details of Interest
1. ....																
2. ....																
3. ....																
4. ....																
5. ....																
6. ....																

Date ..... Principal officer .....

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX B—continued

- NOTE: 1. If the shareholding consists of two or more types of shares, details should be given separately of the type, number and total paid-up values of each type of shares. If additional shares are held in the names of any relatives (who are not members of management staff themselves) of the members of management staff, particulars of the same should be given separately.
2. Has there been in the past—  
 (a) any conviction of an offence involving fraud or dishonesty?  
 (b) any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors?  
 (c) Finding to be of unsound mind by a court of competent jurisdiction?  
 Please state "YES" or "NO" in the above form and if the answer is "YES", give full details separately.
3. If the space herein is insufficient, please use additional paper.

APPENDIX C TO FORM NO. INS. 150-1

PARTICULARS OF DEPARTMENTAL STAFF

Name of Broker. ....	As at 31st December, 20 .....					Number of staff who are not Kenya citizens (Please See Note 2 below)
	NUMBER OF STAFF					
DEPARTMENT	Officers	Clerks	Stenographers/Typists	Messengers	Others	Total
Underwriting						
Claims						
Administration						
Accounts						
Others (please specify)						
TOTAL						

Date: .....  
 .....  
 Principal Officer

[Subsidiary]

---

SIXTEENTH SCHEDULE, APPENDIX C—*continued*

NOTE:

1. If any management staff listed in Appendix B is also included here, please indicate below as a note.
  2. If any of the departmental staff is not a Kenya citizen, please give the name, citizenship and the date of expiry of the work permit in a separate statement.
  3. If any of the departmental staff holds any professional qualifications, such as A.C.I.I., F.C.I.I., A.C.A., etc., please give the name and professional qualifications in a separate statement.
-

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX D—continued

APPENDIX D TO FORM NO. INS. 150-1

PARTICULARS OF AUDITORS, LEGAL ADVISERS AND ACTUARIES

Name of Broker: ..... As at 31st December, 20 .....

		Name of Firm	Address	Partners' Names	Professional Qualifications	Since when
AUDITORS	1. ....					
	2. ....					
	3. ....					
LEGAL ADVISERS	1. ....					
	2. ....					
	3. ....					
ACTUARIES	1. ....					
	2. ....					
	3. ....					

Date: .....

Principal Officer

APPENDIX E TO FORM NO. INS. 150-1

PARTICULARS OF MEMBERS OF INSURANCE INDUSTRY

Name of Broker: ..... As at 31st December, 20 .....

Member of the Insurance Industry (Please See Note 1) (1)	Name (2)	Address (3)	Nature of Work Handled (4)	Shareholding or other Interest (Please see Note 2) (5)	Registration Number (6)

Date: .....

Principal Officer

Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX E—continued

- NOTES:
1. State here broker, agent or any other capacity in which the Member is registered under the Act.
  2. Please give information of number and type of shares held, amount of a shareholding and any other interest as per item 7(ii) of Sixteenth Schedule.
  3. If the space herein is insufficient, please use additional paper.
  4. Please mention in column (6) the reference number of the registration under the Insurance Act, (Cap. 487).

FORM No. INS. 150-2

APPLICATION FOR\* REGISTRATION/RENEWAL OF REGISTRATION AS AN AGENT

(\*Delete whichever is not applicable)

A. APPLICANT

1. Name: .....
2. Registered Office: .....  
 —Postal Address: .....  
 —Telegraphic Address: .....  
 —Telex: ..... Telephone: .....

3. Is the applicant  
 —an individual YES/NO  
 —a partnership YES/NO  
 —a company incorporated under the Companies Act? YES/NO

What is the nationality of

- applicant?
- partners in the firm?
- shareholders of the Company?

If any of the above is not a Kenya citizen, please give his name and nationality.

4. Date of commencement of insurance agency work: .....

5. Qualifications and Work Experience

- A. Academic and professional qualifications of applicant: .....
- B. Number of insurers whom represented as agent: .....
- C. Number of years' experience as agent:.....
- D. Any other work experience?

6. A. Has the applicant ever been—

- (a) convicted of any offence involving fraud or dishonesty? Yes [ ] No [ ]
- (b) found to be of unsound mind by a court of competent jurisdiction? Yes [ ] No [ ]

- B. Has the applicant during the past ten years been adjudicated bankrupt or taken the benefit of any law for relief of bankrupt or insolvent debtors or compounded with creditors or made any assignment of remuneration for the benefit of creditors?

Yes [ ] No [ ]

If the answer is in the affirmative, give details including dates.

(Note—The question relates to partners and board of directors if the applicant is a partner firm or a company.)



Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, FORM No. INS. 150-2—continued

7. Business

Insurer	Number of policies introduced in the preceding year	
	Long term Insurance new policies renewals	General Insurance new policies renewals
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....
		<i>Total</i> .....

8. Does the applicant, or any of the partners (if it is a partnership firm or any of the directors or employees, hold any shares or have a controlling interest or is a director of any insurer, broker, or any other member of the insurance industry?  
If yes, give full particulars.

9. Does the applicant render any service like underwriting claims settlement, etc. to any insurer?  
If yes, please give particulars of the nature of service provided and remuneration received for the same.

10. Does the insurer apart from the agency commission pay any additional amount in the form of commission, profit commission, salary, reimbursement of office expenses or otherwise?  
If yes, please give details.

I hereby certify that the statements contained herein are true and accurate to the best of my knowledge and belief.

Any alterations in particulars stated herein will be promptly communicated to the Commissioner of Insurance.

Date ..... Applicant .....

I/We (full name/names) being the Principal Officer Officers of (name/names of insurer/insurers) hereby certify that (name of Applicant) is by training, experience, aptitude and character, a fit and proper person to be an insurance agent and has been appointed as such by (name/s of insurer/insurers) through an agreement/appointment letter.

Any changes in this form will be notified forthwith to the Commissioner of Insurance.

Date ..... Principal Officer .....  
Insurer .....

FORM No. INS. 150-3

APPLICATION FOR \*REGISTRATION/RENEWAL OF REGISTRATION AS \*CLAIMS SETTLING AGENT/INSURANCE SURVEYOR/LOSS ADJUSTER/LOSS ASSESSOR/RISK MANAGER

(\*Delete whichever is not applicable)

All amounts in Kenya Shillings

A. APPLICANT

- Name: .....
- Registered Office: .....  
—Postal Address: .....  
—Telegraphic Address: .....  
—Telex: ..... Telephone: .....
- Location of Offices:  
—Principal: .....

Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, FORM No. INS. 150-3—continued

(give address)

—Branches at: .....  
(give address)

4. Incorporation:

Status: \*Individual/Partnership/Company

Place: ..... Date: .....

Insurance business: .....

—Date of first licence: .....

—Date of commencement: .....

5. Particulars:

- (i) Members of board of directors or Partners of the firm (Appendix A).
- (ii) Principal Officer, Company Secretary and other senior management staff (Appendix B).
- (iii) Departmental Staff (Appendix C).
- (iv) Auditors and Legal Advisors (Appendix D).
- (v) Members of the insurance industry whose services were availed of or to whom services were provided during the year (Appendix E).

6. Bankers

	Name	Address	Since when
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....

- 7. (i) Does the applicant or a partner or director or an employee of the applicant directly or indirectly hold shares in or have any other financial or controlling interest in the affairs of any other member of the insurance industry?
- (ii) Is any of the individuals of firms listed in Appendices D and E—
  - (a) a director or employee of the applicant or a related company?
  - (b) holding any shares in, debentures of, or other interests with the applicant or related company?
 If so, please give full particulars.

8. If the applicant is a company incorporated under the Companies Act, Cap. 486 give the total paid up capital of the company.

9. Business particulars:

- A. Number of years' experience in the capacity in which registration is sought—
- B. Number of insurers for whom work done in the past—
- C. Do you handle any other work—
  - pertaining to insurance business?
  - not pertaining to insurance business?

If the answer to the above is in the affirmative, give brief description of the work handled.

I hereby certify that the statements contained herein are true and accurate to the best of my knowledge and belief.

Any alterations in particulars stated herein must be promptly communicated to the Commissioner of Insurance.

Signed on this ..... day of ....., 20 .....

Principal Officer

[Subsidiary]

SIXTEENTH SCHEDULE—continued  
 APPENDIX A TO FORM NO. INS. 150-3  
 PARTICULARS OF BOARD OF DIRECTORS/PARTNERS

Name of\* ..... As at 31st December, 20 .....

Serial Number	Full Name	Citizenship	Residential Address	Occupation	Date of Appointment	Number of shares held (See note 1 below)	COURT CONVICTION (See NOTE 2 BELOW)			INTEREST IN ANY MEMBER OF INSURANCE INDUSTRY (See ITEM 7(i) OF SIXTEENTH SCHEDULE)		
							(a)	(b)	(c)	Nature of Business	Name	Details of Interest
1. ....												
2. ....												
3. ....												
4. ....												
5. ....												
6. ....												

Date: ..... Principal Officer

- NOTE:
1. If the shareholding consists of two or more types of shares, details should be given separately of the type, number and total paid-up values of each type of shares. If additional shares are held in the names of any relatives (who are not directors themselves) of the Director, particulars of the same should be given separately.
  2. Has there been in the past—
    - (a) any conviction of an offence involving fraud or dishonesty?
    - (b) any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors?
    - (c) finding to be of unsound mind by a court of competent jurisdiction? Please state "YES" or "NO" in the above form and if the answer is "YES" give full details separately.

Insurance

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX A—continued

- 3. If the space herein is insufficient, please use additional paper.
- \* Enter the relevant description from the undermentioned:  
claims settling agent/insurance surveyor/loss adjuster/loss assessor/risk manager.

APPENDIX B TO FORM NO. INS. 150-3  
PARTICULARS OF MANAGEMENT STAFF

Serial Number	Full Name	Designation	Citizenship	Age	Residential Address	Qualification		Years of Experience	Date of Appointment	Number of Shares held (See Note 1 below)	As at 31st December, 20.....						
						Academic	Professional				Court Conviction (See Note 2 below)	Interest in any Number of Insurance Industry (See Item 7(i) of Form No. INS. 30-1)	Nature of Business	Name	Details of Interest		
1. ....											(a)	(b)	(c)				
2. ....																	
3. ....																	
4. ....																	
5. ....																	
6. ....																	
7. ....																	
8. ....																	

Date: .....  
Principal Officer

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX B—continued

- NOTES:
1. If the shareholding consists of two or types of shares, details should be given separately of the type, number and total paid-up values of each type of shares. If additional shares are held in the names of any relatives (who are not members of management staff themselves) of the members of management staff, particulars of the same should be given separately.
  2. Has there been in the past—
    - (a) any conviction of an offence involving fraud or dishonesty?
    - (b) any adjudication as bankrupt or benefit taken of any law for the relief of bankrupt or insolvent debtors or compounding with creditors or assignment of remuneration for benefit of creditors?
    - (c) finding to be of unsound mind by a court of competent jurisdiction?
 Please state "Yes" or "NO" in the above form and if the answer is "Yes" give details separately.
  3. If the space herein is insufficient, please use additional paper.
    - \* Enter the relevant description from the undermentioned:
      - claims setting agent/insurance surveyor/loss assessor/risk manager.

APPENDIX C TO FORM NO. INS. 150-3

PARTICULARS OF DEPARTMENTAL STAFF

Name of\* ..... As at 31st December, 20.....

Department	NUMBER OF STAFF				Total	Number of staff who are not Kenya citizens (Please see Note 2 below)
	Officers	Clerks	Stenographers/Typists	Messengers		
Underwriting .....						
Claims .....						
Administration .....						
Accounts .....						
Others (please specify) .....						
TOTAL .....						

Date: .....  
 .....  
 Principal Officer

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX C—continued

NOTE:

1. If any management staff listed in Appendix B is also included here, please indicate below as a note.
  2. If any of the departmental staff is not a Kenya citizen, please give the name, citizenship and the date of expiry of the work permit in a separate statement.
  3. If any of the departmental staff holds any professional qualifications, such as A.C.I.I., F.C.I.I., A.C.A., etc., please give the name and professional qualification in a separate statement.
- \* Enter the relevant description from the undermentioned:  
claims settling agent/insurance surveyor/loss adjuster/loss assessor/risk manager.

\_\_\_\_\_

Insurance

[Subsidiary]

SIXTEENTH SCHEDULE—continued  
 APPENDIX D TO FORM NO. INS. 150-3

PARTICULARS OF AUDITORS, LEGAL ADVISERS AND ACTUARIES

Name of\* ..... As at 31st December, 20 .....

	Name of Firm	Address	Partner's Names	Professional Qualifications	Since when
AUDITORS					
1. ....					
2. ....					
3. ....					
LEGAL ADVISERS					
1. ....					
2. ....					
3. ....					
ACTUARIES					
1. ....					
2. ....					
3. ....					

Date: ..... Principal Officer

\* Enter the relevant description from the undermentioned:  
 Claims settling agent/insurance surveyor/loss adjuster/loss assessor/risk manager.

APPENDIX E TO SIXTEENTH SCHEDULE

PARTICULARS OF MEMBERS OF INSURANCE INDUSTRY

Name of\* ..... As at 31st December, 20 .....

Member of the Insurance Industry (Please see note 1)	Name	Address	Nature of Work handled	Shareholding or other Interest (Please see note 2)	Registration Number
(1)	(2)	(3)	(4)	(5)	(6)

Date: ..... Principal Officer

[Subsidiary]

SIXTEENTH SCHEDULE, APPENDIX E—*continued*

- NOTES:
1. State here broker, agent or any other capacity in which the member is registered under the Act.
  2. Please give information of number and type of shares held, amount of shareholding and any other interest as per item 7(ii) of Sixteenth Schedule.
  3. If the space herein is insufficient, please use additional paper.
  4. Please mention in column (6) the reference number of the registration under the Insurance Act (Cap. 487).
- \* Enter the relevant description from the undermentioned:  
 Claims settling agents/Insurance surveyor/loss adjuster/loss assessor/risk manager.

## SEVENTEENTH SCHEDULE

[L.N. 108/2002, s. 8, s. 151(1)(a) and Regulation 35.]

## PROFESSIONAL INDEMNITY POLICY

**1. Insured**

The professional indemnity policy shall state the registered name of the broker protected by the policy.

**2. Cover**

The policy shall cover—

- (a) losses arising from claims against the insured for breach of duty by negligence, error, omission dishonesty or fraud;
- (b) against claims arising in connection with legal liability for loss of documents and costs of replacing or restoring documents.

**3. Indemnity limits**

The indemnity limit for any one occurrence shall be ten million shillings or five per centum of the premium paid, whichever is the higher.

[L.N. 108/2002, s. 8.]

**4. Excess**

The maximum permitted excess shall be five thousand shillings or 0.5 per centum of the minimum limit of indemnity, whichever is higher, unless the Commissioner consents to a higher excess.



Insurance

[Subsidiary]

EIGHTEENTH SCHEDULE

FORM No. INS. 151-1

[Section. 151(1)(e) And Regulation 36.]

STATEMENT OF BUSINESS OF A BROKER

All amounts in Kenya Shillings

Name of Broker: ..... Year ending 31st December, 20 .....

<i>Insurance Business</i>	<i>Number insurers</i>	<i>Number policies</i>	<i>Total brokerage earned</i>	<i>Total premium under the policies placed</i>	<i>Largest per centage brokerage from any one insurer</i>
	(1)	(2)	(3)	(4)	(5)
Long term—Direct .....					
—Reinsurance					
TOTAL .....					
General					
Insurance—Direct .....					
—Reinsurance					
TOTAL .....					
TOTAL .....					

Date: .....

Principal Officer

NOTE: If the broker provides other services like underwriting and claims settlement to the insurers and insurance consultancy, risk management, pension management, etc., to his clients, a statement showing the nature of service, number of cases handled and the total amount of fees earned separately from insurers and clients should be enclosed.

Insurance

[Subsidiary]

EIGHTEENTH SCHEDULE—continued

Form INS. 151-2

[Section 151(1)(c) and Regulation 36]

STATEMENT OF BUSINESS OF AN AGENT

Name of Agents: ..... All amounts in Kenya Shillings  
 Year ending 31st December 20 .....

Business (1)	Number of policies introduced (2)	Amount of premium under all policies introduced (3)	AMOUNT OF PREMIUM PENDING REMITTANCE TO INSURERS			Amount of Agency Commission earned (7)	Number of Insurers with whom business placed (8)
			Up to 30 days (4)	More than 30 days (5)	Total (6)		
Long-Term							
General Insurance							
<b>TOTAL</b>							

Date: .....  
 .....  
 Principal Officer

NOTE: If the agent provides other services like underwriting and claims settlement to the insurers and insurance consultancy, risk management, etc., to his clients a statement showing the nature of services, number of cases handled and the total amount of fees earned separately from insurers and the clients should be enclosed.

[Subsidiary]

EIGHTEENTH SCHEDULE—continued

Form INS. 151-3

[Section 151(1)(c) and Regulation 36]

STATEMENT OF BUSINESS OF A CLAIMS SETTLING AGENT/INSURANCE SURVEYOR/LOSS ADJUSTER/LOSS ASSESSOR/RISK MANAGER\*

(\*Delete whichever are not applicable)

Name: ..... All amounts in Kenya Shillings  
 Year ending 31st December, 20 .....

Class of Business (1)	NUMBER OF CASES HANDLED			AMOUNT OF FEES			Number of Insurers for whom cases handled (8)	Largest Percentage of cases for a single Insurer (9)
	Already completed (2)	On hand (3)	Total (4)	Received (5)	Outstanding (6)	Total (7)		
TOTAL								

Date: .....  
 .....  
 Principal Officer

- NOTES: 1. In case any assignments were handled on behalf of an overseas insurer, a statement giving the number and nature of such assignments, amount of fees received and name of the currency it was received should be enclosed.  
 2. The number of insurers in column (8) should not include the number of overseas insurers for whom work may have been done (see note 1 above).

Insurance

[Subsidiary]

NINETEENTH SCHEDULE

[Regulation 39.]

Form of Guarantee

1. Name: .....

(Name of Bank)

in this Guarantee referred to as "the Bank" hereby guarantees to the Commissioner of Insurance (in this Guarantee referred to as the Commissioner) that in the event of any insurance client of .....

..... (in

(Name of Broker)

this guarantee referred to as the Broker) or any insurance company obtaining, while this Guarantee is in force, a court decree in respect of unsatisfied debts of the Broker to the insurance client or the insurance company, as the case may be, in respect of insurance business, which debt the client or the insurance company is unable to recover in any other way, the Bank will pay on demand to the order of the Commissioner the sum of .....

(amount of guarantee)

- 2. This Guarantee is a continuing Guarantee and may be revoked—
  - (a) with the consent in writing of the Commissioner; or
  - (b) after the expiration of twelve months after notice in writing of the intention of the Bank to revoke this Guarantee has been given to the Commissioner.
- 3. The revocation of this Guarantee does not release the Bank from, or affect, any liability of the Bank under this Guarantee existing immediately before the revocation.

Dated at ..... this ..... day of ..... 20 .....

THE SEAL OF ..... WAS AFFIXED  
TO THIS GUARANTEE BY .....  
IN THE PRESENCE OF .....

FORM No. INS. 153-2

STATEMENT OF OUTSTANDING PREMIUMS DUE BY A BROKER

All amounts in Kenya Shillings

Name of Broker: ..... Half-year ending 30th December, 20 .....

BUSINESS	Premium under business placed	PREMIUM DUE TO THE INSURERS PENDING FOR			PREMIUM DUE TO THE INSURERS AS AT THE END OF PROCEEDING HALF-YEAR	
		Up to 60 days	Over 60 days	Total (3+4)	Amount	Amount which is still pending
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Long term .....						
Insurance—Direct .....						
—Reinsurance .....						
TOTAL .....						

Insurance

[Subsidiary]

NINETEENTH SCHEDULE, Form No. INS. 153-2—continued

BUSINESS	Premium under business placed	PREMIUM DUE TO THE INSURERS PENDING FOR			PREMIUM DUE TO THE INSURERS AS AT THE END OF PROCEEDING HALF-YEAR	
		Up to 60 days	Over 60 days	Total (3+4)	Amount	Amount which is still pending
(1)	(2)	(3)	(4)	(5)	(6)	(7)
General .....						
Insurance—Direct .....						
—Reinsurance .....						
TOTAL .....						
GRAND TOTAL .....						

Date: .....

Auditor

Principal Officer

NOTE: In case any premiums are outstanding for more than 60 days, a statement showing the name of insurer, amount of premium due, duration of pending amount, reasons for non-payment and when expected to be paid, be furnished along with this form.

TWENTIETH SCHEDULE

FORM No. INS. 201-1

(r. 47)

APPLICATION TO REMIT FUNDS OVERSEAS

Application No. .... All amounts in Kenya Shillings

A. APPLICANT

1. Name: .....
2. Address: .....
3. Registered as: .....

B. RECIPIENT

4. Name: .....
5. Address: .....

C. PARTICULARS OF TRANSACTION

6. Nature of transaction(s) leading to liability for remittance .....
7. State whether any application was made on account of the same or similar transaction. If so, give the following details:
  - (a) Application
    - number .....
    - date .....
  - (b) Dates of sanction
    - by the Department .....
    - by the Central Bank .....

Insurance

[Subsidiary]

TWENTIETH SCHEDULE, FORM No. INS. 201-1—continued

- (c) Date on which remittance was effected; .....
- 8. State whether and if so, on the above account—
  - (a) when and how much further payments may fall due, .....
  - (b) what effort has been made to minimise the outflow of funds .....

Date: .....

Principal Officer

NOTES:

- (1) Copies of documents including statements of accounts, debit notes, etc. should be attached.
- (2) Separate series be kept for Long term and General Insurance business and same be indicated by a prefix "LT" or "GI" respectively. The application serial number must also show the calender year, in which it is made, by a suffix to the number, e.g. the first application in 1987 should be numbered LT/001/87 and GI001/87 for long term and general insurance business respectively. A fresh series should be started each year.

FORM No. INS. 202-2

QUARTERLY STATEMENT OF REMITTANCES OF FUNDS OVERSEAS AND CLAIMS/OTHER RECOVERIES FROM OVERSEAS

QUARTER ENDING 31ST MARCH/30TH JUNE/30TH SEPTEMBER/31ST DECEMBER, 20 .....

Name of Insurer: ..... All amounts in Kenya Shillings

Remittance Overseas	LONG TERM INSURANCE		GENERAL INSURANCE		TOTAL	
	Number	Amount	Number	Amount	Number	Amount
(a) During the Quarter:						
1. Applications made to the Department .....						
2. Applications approved by the Department .....						
3. Applications approved by the Central Bank .....						
4. Applications on which remittance effected .....						
(b) As at the end of the Quarter:						
5. Applications under correspondence .....						
6. Applications awaiting approval of the department .....						
7. Applications awaiting approval of the Central Bank .....						
8. Applications awaiting remittance of funds .....						
Total of B (4+5+6+7) .....						
(ii) Claims/Other Receivers from Overseas:						

Insurance

[Subsidiary]

TWENTIETH SCHEDULE FORM No. INS. 202-2—continued

<i>Remittance Overseas</i>	LONG TERM INSURANCE		GENERAL INSURANCE		TOTAL	
	<i>Number</i>	<i>Amount</i>	<i>Number</i>	<i>Amount</i>	<i>Number</i>	<i>Amount</i>
9. Amounts received during the quarter .....						
10. Amounts due but not received at the end of the current quarter .....						
11. Amounts due but not received at the end of the preceding quarter .....						
Total (9+10-11) .....						

Date: .....

Principal Officer

\_\_\_\_\_

Insurance

[Subsidiary]

TWENTY-FIRST SCHEDULE  
SUMMARY OF CLAIMS

Form INS. 203-1A

[L.N. 51/2011, s. 8.]

LONG-TERM INSURANCE BUSINESS

Name of Insurer: ..... All amounts in Kenya Shillings  
For the year ending 31st December, 20 .....

CLASS OF BUSINESS	Item	BOND INVESTMENT		INDUSTRIAL LIFE		ORDINARY LIFE		SUPERANNUATION		TOTAL	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
A. Claims outstanding at the beginning of the year .....	1										
B. Claims Action During the Year:	2										
Claims intimated .....	3										
Claims revived (not included in (1) above)	4										
TOTAL OF CLAIMS ON HAND (1+2+3)	5										
Claims settled .....	6										
Claims rejected .....	7										
Claims filed as no claims .....	8										
TOTAL OF CLAIMS DEALT WITH (5+6+7)	9										
C. Claims revised or change in claims reserve during the year (4-8) .....											



[Subsidiary]

TWENTY-FIRST SCHEDULE, FORM INS. 203-1A—continued

CLASS OF BUSINESS	Item	BOND INVESTMENT		INDUSTRIAL LIFE		ORDINARY LIFE		SUPERANNUATION		TOTAL	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
D. (i) Outstanding claims (included in (9) above) on which liability admitted but pending for— —not more than ninety days . —more than ninety days .....	10										
	11										
	12										
	TOTAL (10+11) .....										
(ii) Outstanding claims (included in (9) above) on which liability not admitted and pending for— —not more than ninety days . —not more than six months .. —more than six months .....	13										
	14										
	15										
	16										
—TOTAL (13+14+15) .....											
E. <i>Claims Subject of Court Cases</i> Claims included in (1) above .....	17										
	18										
	19										
	20										
Claims referred to court during the year .....											
Claims settled during the year .....											
Claims in court (included in (9) above (17+18+19) .....											

[Subsidiary]

TWENTY-FIRST SCHEDULE, FORM INS. 203-1A — continued

CLASS OF BUSINESS	Item	BOND INVESTMENT		INDUSTRIAL LIFE		ORDINARY LIFE		SUPERANNUATION		TOTAL	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
F. <i>Claims subject of arbitration</i>	21										
	22										
	23										
	24										
G. Outstanding recoveries in respect of settled claims pending for more than ninety days—											
	25										
	26										
	27										

Date: .....  
 .....  
 Principal Officer

TWENTY-FIRST SCHEDULE—continued

Form INS. 203-1B

[L.N. 51/2011, s. 8.]

SUMMARY OF CLAIMS  
GENERAL INSURANCE BUSINESS

Name of Insurer: ..... For the year ending 31st December, 20..... All amounts in Kenya Shillings

CLASS OF BUSINESS	Item	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
A. Claims outstanding at the beginning of the year .....	1												
B. Claims Action During the Year:	2												
Claims intimated .....	3												
Claims revived (not included in (1) above) ..	4												
TOTAL OF CLAIMS ON HAND (1+2+3)	5												
Claims settled .....	6												
Claims rejected .....	7												
Claims filed as no claims .....	8												
TOTAL OF CLAIMS DEALT WITH (5+6+7) .....													

[Subsidiary]

TWENTY-FIRST SCHEDULE, FORM INS. 203-1B—continued

CLASS OF BUSINESS	Item	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
C. Claims revised, or change in claims reserve during the year (4-8) ....	9												
D. (i) Outstanding claims (included in (9) above) on which liability admitted but pending for—													
—not more than ninety days .....	10												
—more than ninety days .....	11												
TOTAL (10+11) .....	12												
(ii) Outstanding claims (included in (9) above) on which liability not admitted and pending for—													
—not more than ninety days .....	13												
—not more than six months .....	14												

[Subsidiary]

TWENTY-FIRST SCHEDULE, FORM INS. 203-1B—continued

CLASS OF BUSINESS	Item	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
—more than six months .....	15												
TOTAL (13+14+15) .....	16												
E. <i>Claims Subject of Court</i> Cases:													
Claims included in (1) above .....	17												
Claims referred to court during the year .....	18												
Claims settled during the year .....	19												
Claims in court (included in (9) above) (17+18+19) .....	20												
F. <i>Claims subject of arbitration:</i>													
Claims included in (1) above .....	21												
Claims referred to arbitration during the year .....	22												
Claims settled during the year .....	23												

[Subsidiary]

TWENTY-FIRST SCHEDULE, FORM INS. 203-1B—continued

CLASS OF BUSINESS	Item	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Claims in arbitration (included in (9) above) (21+22+23) .....	24												
G. Outstanding recoveries in respect of settled claims pending for more than ninety days—													
(i) from salvage/third parties .....	25												
(ii) from local re-insurers .....	26												
(iii) from overseas re-insurers .....	27												
TOTAL (25+26+27) .....	28												

Date: .....

Principal Officer

[Subsidiary]

TWENTY-FIRST SCHEDULE—continued  
SUMMARY OF CLAIMS

GENERAL INSURANCE BUSINESS

Name of Insurer: .....	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06		MOTOR PRIVATE 07	
	Number	Amount	Num ber	Amount	Num ber	Amount	Number	Amount	Numb er	Amount	Num ber	Amount	Num ber	Amount
CLASS OF BUSINESS	Item													
A. Claims outstanding at the beginning of the year	1													
B. Claims Action During the Year:	2													
Claims intimated .....	3													
Claims revived (not included in (1) above) .														
TOTAL OF CLAIMS ON HAND (1+2+3)	4													
Claims settled .....	5													
Claims rejected .....	6													
Claims filed as no claims .....	7													
TOTAL OF CLAIMS DEALT WITH (5+6+7) .....	8													
C. Claims outstanding at the end of the year (4-8) .....	9													

[Subsidiary]

TWENTY-FIRST SCHEDULE—continued

CLASS OF BUSINESS	Item	AVIATION 01		ENGINEERING 02		FIRE DOMESTIC 03		FIRE INDUSTRIAL 04		LIABILITY 05		MARINE 06		MOTOR PRIVATE 07	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
D. Outstanding claims (included in (9) above) on which liability admitted but pending for—															
—not more than ninety days .....	10														
—more than ninety days .....	11														
TOTAL (10+11) .....	12														
(ii) Outstanding claims (included in (9) above) on which liability not admitted and pending for—															
—not more than ninety days ...	13														
—not more than six months ...	14														
—more than six months .....	15														
TOTAL (13+14+15) .....	16														



[Subsidiary]

TWENTY-FIRST SCHEDULE—continued

CLASS OF BUSINESS	Item	MOTOR COMMERCIAL 8		PERSONAL ACCIDENT 9		THEFT 10		WORKMEN'S COMPENSATION 11		MISCELLANEOUS 12		TOTAL 13	
		Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount
E. <i>Claims Subject of Court Cases</i>	17												
	18												
	19												
	20												
F. <i>Claims subject of arbitration</i>	21												
	22												
	23												
	24												

Insurance

[Subsidiary]

TWENTY-FIRST SCHEDULE—continued

CLASS OF BUSINESS	MOTOR COMMERCIAL 8		PERSONAL ACCIDENT 9		THEFT 10		WORKMEN'S COMPENSATION 11		MISCELLANEOUS 12		TOTAL 13	
	Item	Number	Amount	Number	Amount	Number	Amount	Number	Amount	Number	Amount	
G. Outstanding recoveries in respect of settled claims pending for more than ninety days—												
(i) from local re-insurers .....	25											
(ii) from overseas re-insurers ....	26											
TOTAL (25+26) .....	27											

Date: ..... Principal Officer: .....

Principal Officer:

[Subsidiary]

TWENTY-FIRST SCHEDULE—continued

Form INS. 203-2

[L.N. 51/2011, s. 8.]

MONTHLY SUMMARY OF CLAIMS

All amounts in Kenya Shillings  
For the Month Ending:

Name of Insurer .....	LONG-TERM INSURANCE		GENERAL INSURANCE	
	Number	Amount	Number	Amount
<b>BUSINESS</b>				
(A) Claims outstanding at the beginning of the month	1			
Claims intimated during the month .....	2			
Claims revived during the month .....	3			
TOTAL (1+2+3) .....	4			
<b>(B) Action during the Month</b>				
Claims settled .....	5			
Claims rejected .....	6			
Claims closed as "no claims" .....	7			
TOTAL (5+6+7) .....	8			
<b>(C) Claims revised, or change in claims reserve during the year—</b>				
not more than ninety days .....	9			
more than ninety days .....	10			
TOTAL (9+10) .....	11			
<b>on which liability not admitted and pending for—</b>				
not more than ninety days .....	12			



TWENTY-SECOND SCHEDULE

[Regulation 34(2), L.N. 52/1987, s. 2, L.N. 97/2009, s. 6.]

REGISTRATION No.



EXPIRES ON 31st December, 20 .....

REGISTRATION AS AN INSURER

Registration is granted to

..... (name)

of ..... (address)

to carry on, in Kenya/outside Kenya, the following classes of insurance business—

LONG TERM INSURANCE BUSINESS

Bond Investment/Industrial Life/Ordinary Life/Superannuation

GENERAL INSURANCE BUSINESS

Aviation/Engineering/Fire-Domestic/Fire-Commercial/Liability/Marine/Motor-Private/Motor-Commercial/Personal Accident/Theft/Workmen's Compensation/Miscellaneous/

..... subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon, for a period of twelve months ending 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 NAIROBI

..... Commissioner of Insurance

REGISTRATION No.



EXPIRES ON 31st December, 20 .....

REGISTRATION AS A RISK MANAGER

Registration is granted to

..... (name)

of ..... (address)

Insurance

[Subsidiary]

TWENTY-SECOND SCHEDULE—continued

to operate as a risk manager in Kenya, subject to the provisions of the Insurance Act (Cap. 487) and the conditions endorsed hereon for a period of twelve months ending 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 NAIROBI Commissioner of Insurance

REGISTRATION No.



EXPIRES ON 31st December, 20.....

REGISTRATION AS A LOSS ASSESSOR

Registration is granted to ..... (name) of ..... (address) to operate as a loss assessor in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon for a period of twelve months ending 31st December, 20.....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 NAIROBI Commissioner of Insurance

REGISTRATION No.



EXPIRES ON 31st December, 20.....

REGISTRATION AS A LOSS ADJUSTER

Registration is granted to ..... (name) of ..... (address) to operate as a loss adjuster in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon for a period of twelve months ending 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 NAIROBI Commissioner of Insurance

TWENTY-SECOND SCHEDULE—continued

REGISTRATION No.
---------------------



EXPIRES ON 31st December, 20 .....
---------------------------------------

REGISTRATION AS AN INSURANCE SURVEYOR

Registration is granted to

..... (name)

of ..... (address)

to operate as *an insurance surveyor* in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon for a period of twelve months ending 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 .....  
 NAIROBI *Commissioner of Insurance*

REGISTRATION No.
---------------------



EXPIRES ON 31st December, 20 .....
---------------------------------------

REGISTRATION AS AN AGENT

Registration is granted to

..... (name)

of ..... (address)

to operate as *an agent* in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon, for a period of twelve months ending on 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 .....  
 NAIROBI *Commissioner of Insurance*

REGISTRATION No.
---------------------



EXPIRES ON 31st December, 20 .....
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REGISTRATION AS A BROKER

Registration is granted to

..... (name)

Insurance

[Subsidiary]

TWENTY-SECOND SCHEDULE—*continued*

of ..... (address)  
 to operate as a *broker* in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon, for a period of twelve months ending on 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 .....  
 NAIROBI ..... *Commissioner of Insurance*  
 20 .....

REGISTRATION No.		EXPIRES ON 31st December, 20 .....
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REGISTRATION AS A CLAIMS SETTLING AGENT

Registration is granted to .....  
 ..... (name)  
 of ..... (address)  
 to operate as a *claims settling agent* in Kenya, subject to the provisions of the Insurance Act, 1984 and the conditions endorsed hereon for a period of twelve months ending 31st December, 20 .....

CONDITIONS

Dated the ....., 20 .....

P.O. Box 43505 .....  
 NAIROBI ..... *Commissioner of Insurance*

TWENTY-THIRD SCHEDULE

[Regulation 51, L.N. 146/1987, s. 2, L.N. 124/1994, s. 5.]

FORM No. INS. 197J-1

MONTHLY INSURANCE TRAINING LEVY RETURN

*All Amounts in Kenya Shillings*

Name of Insurer or Reinsurer ..... for the month ending ....., 20 .....

Serial No.	Class of Insurance Business	Amount of Gross Direct Premium Written During the Month
A	LONG TERM INSURANCE BUSINESS	
31	Bond investment business .....	
32	Industrial life assurance business .....	



Insurance

[Subsidiary]

TWENTY-THIRD SCHEDULE, FORM No. INS. 197J-1—continued

Serial No.	Class of Insurance Business	Amount of Gross Direct Premium Written During the Month
33	Ordinary life assurance business .....	
34	Superannuation business .....	
	Sub-total (i) .....	
<b>B GENERAL INSURANCE BUSINESS</b>		
01	Aviation insurance .....	
02	Engineering insurance including contractor's all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown .....	
03	Fire insurance—domestic risks including houseowners, householders and other comprehensive package covers .....	
04	Fire insurance—industrial and commercial risks and consequential loss from fire insurance .....	
05	Liability insurance—including public liability, products liability and professional indemnity .....	
06	Marine Insurance .....	
07	Motor insurance—private vehicles .....	
08	Motor insurance—commercial vehicles .....	
09	Personal accident insurance .....	
10	Theft insurance including burglary, cash-in-transit and fidelity guarantee.....	
11	Workmen's compensation and employer's liability insurance .....	
12	Miscellaneous insurance (i.e. class of business not included under those listed above) .....	
	Sub-total (ii) .....	
	Total (i) + (ii) .....	
	0.35% of (i) + (ii) .....	
	Penalty for late payment (add) .....	
	Total insurance training levy payable .....	

Date ..... *Principal Officer* .....

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Insurance

[Subsidiary]

TWENTY-FOURTH SCHEDULE

[Regulation 52, L.N. 180/1992, r. 2, L.N. 124/1994, r. 5.]

FORM No. INS. 197B-1

MONTHLY PREMIUM TAX RETURN

All Amounts in Kenya Shillings

Name of Insurer or Reinsurer ..... for the month ending ....., 20 .....

Serial No.	Class of Insurance Business	Amount of Gross Direct Premium Written During the Month
A	LONG TERM INSURANCE BUSINESS	
31	Bond investment business .....	
32	Industrial life assurance business .....	
33	Ordinary life assurance business .....	
	Sub-total (i) .....	
B	GENERAL INSURANCE BUSINESS	
01	Aviation insurance .....	
02	Engineering insurance including contractor's all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown .....	
03	Fire insurance—domestic risks including houseowners, householders and other comprehensive package covers .....	
04	Fire insurance—industrial and commercial risks and consequential loss from fire insurance .....	
05	Liability insurance—including public liability, products' liability and professional indemnity .....	
06	Marine Insurance .....	
07	Motor insurance—private vehicles .....	
08	Motor insurance—commercial vehicles .....	
09	Personal accident insurance .....	
10	Theft insurance including burglary, cash-in-transit and fidelity guarantee .....	
11	Workmen's compensation and employer's liability insurance .....	
12	Miscellaneous insurance (i.e. class of business not included under those listed above) .....	
	Sub-total (ii) .....	
	Total (i) + (ii) .....	
	1% of (i) + (ii) .....	
	Penalty for late payment (add) .....	
	Total tax payable .....	

Date ..... Principal Officer .....

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TWENTY-FIFTH SCHEDULE  
 [L.N. 180/1992, r. 2, L.N. 124/1994, r. 5, L.N. 135/2007, L.N. 57/2012, r. 19.]

Form No. INS. 197E-1

(r.53)(c)(i)

ANNUAL PREMIUM TAX RETURN

All amounts in Kenya shillings

Name of Insurer .....		for the year ending ..... 20 .....												
Class of insurance business		Amount of Gross Direct Premium Written During the Month												
Serial No.		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total
A	LONG -TERM INSURANCE BUSINESS													
31	Bond investment business .....													
32	Industrial life assurance business .....													
33	Ordinary life assurance business .....													
34	Superannuation business .....													
	Sub-total (i)													
B	GENERAL INSURANCE BUSINESS													
01	Aviation insurance													
02	Engineering insurance including contractors all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown .....													
03	Fire insurance domestic risks including house owners, householders and other comprehensive packages covers.													
04	Fire insurance industrial and commercial risks and consequential loss from fire insurance.													
05	Liability insurance-including public liability, products liability and professional indemnity													

Insurance

[Subsidiary]

TWENTY-FIFTH SCHEDULE, FORM NO. 197E-1—continued

Serial No.	Class of insurance business	Amount of Gross Direct Premium Written During the Month													
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total	
06	Marine Insurance														
07	Motor insurance-private vehicles														
08	Motor insurance-commercial vehicle														
09	Personal accident insurance														
10	Theft insurance including burglary, cash in transit and fidelity guarantee														
11	Workmen's compensation (i.e. classes of business not included under those listed above)														
12	Miscellaneous insurance (i.e. classes of business not included under those listed above)														
	Sub-total (ii) .....														
	1% of (i) + (ii) .....														
	Penalty for late payment (add) .....														
	Total levy payable														

Auditor ..... Principal Officer .....

## Insurance

[Subsidiary]

## TWENTY-SEVENTH SCHEDULE

[L.N. 124/1994, r. 6, L.N. 87/1996, r. 2, L.N. 135/2007.]

FORM No. INS 197A-3(a)

(r. 53(b))

## QUARTERLY RE-INSURANCE PREMIUM LEVY RETURN

Name of Insurer ..... for the month ending ....., 20 ..... All amounts in Kenya shillings

Serial Number	Class of insurance business	Amount of Re-insurance Premiums paid or credited to Re-insurance Business Outside Kenya
A	LONG TERM INSURANCE BUSINESS	
31	Bond investment business .....	
32	Industrial life assurance business .....	
33	Ordinary life assurance business .....	
34	Superannuation business .....	
	Sub-total (i) .....	
B	GENERAL INSURANCE BUSINESS	
01	Aviation insurance	
02	Engineering insurance including contractor's all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown .....	
03	Fire insurance domestic risks including house owners, householders and other comprehensive package covers.	
04	Fire insurance industrial and commercial risks and consequential loss from fire insurance.	
05	Liability insurance-including public liability, products liability and professional indemnity	
06	Marine Insurance	
07	Motor insurance-private vehicle	
08	Motor insurance-commercial vehicle	
09	Personal accident insurance	
10	Theft insurance including burglary, cash in transit and fidelity guarantee	
11	Workmen's compensation and their employer's liability insurance	
12	Miscellaneous insurance (i.e. classes of business not included under those listed above)	
	Sub-total (ii) .....	
	Total (i) + (ii)	

Insurance

[Subsidiary]

TWENTY-SEVENTH SCHEDULE, FORM No. INS. 197A-3(a)—continued

<i>Serial Number</i>	<i>Class of insurance business</i>	<i>Amount of Re-insurance Premiums paid or credited to Re-insurance Business Outside Kenya</i>
	5% of (i) + (ii)	
	Penalty for late payment (add) .....	
	Total levy payable .....	

Date ..... *Principal Officer* .....

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TWENTY-EIGHTH SCHEDULE  
[Regulation 53(c)(ii), L.N. 124/1994, r. 6, L.N. 135/2007.]

Form No. **INS. 197E-2**

**ANNUAL RE-INSURANCE PREMIUM TAX RETURN**

*All amounts in Kenya Shillings*

Name of Insurer ..... for the year ending ..... 20 .....

Serial No	Class of Insurance Business	Amount of re-insurance premiums paid or credited to re-insurance business outside Kenya													
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	
A	LONG - TERM INSURANCE BUSINESS														
31	Bond investment business .....														
32	Industrial life assurance business .....														
33	Ordinary life assurance business .....														
34	Superannuation business .....														
	Sub-total (i)														
B	GENERAL INSURANCE BUSINESS														
01	Aviation insurance														
02	Engineering insurance including contractors all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown .....														
03	Fire insurance domestic risks including house owners, householders and other comprehensive packages covers.														
04	Fire insurance industrial and commercial risks and consequential loss from fire insurance.														

[Subsidiary]

TWENTY-EIGHTH SCHEDULE, FORM NO. INS 197E-2—continued

Serial No	Class of Insurance Business	Amount of re-insurance premiums paid or credited to re-insurance business outside Kenya													
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	
05	Liability insurance-including public liability, products liability and professional indemnity														
06	Marine Insurance														
07	Motor insurance-private vehicles														
08	Motor insurance-commercial vehicle														
09	Personal accident insurance														
10	Theft insurance including burglary, cash in transit and fidelity guarantee														
11	Workmen's compensation (i.e. classes of business not included under those listed above)														
12	Miscellaneous insurance (i.e. classes of business not included under those listed above)														
	Sub-total (ii) .....														
	5% of (i) + (ii)														
	Penalty for late payment (add) .....														
	Total levy payable														

Auditor ..... Principle Officer .....



Insurance

[Subsidiary]

TWENTY-NINTH SCHEDULE, FORM No. INS. 197E-3

[L.N. 57/2012, r. 20.]

(r. 56.)

ANNUAL TRAINING LEVY RETURN

Name of insurer ..... For the year ending, ..... 20 ..... All amounts in Kenya shillings

S.No.	Class of insurance business	Amount of Gross premium written during the month												total
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	GENERAL INSURANCE BUSINESS													
01	Aviation Insurance													
02	Engineering insurance including contractors all risks machinery breakdown, erection all risks and consequential loss from machinery breakdown.....													
03	Fire insurance domestic risks including house owners, householders and other comprehensive packages covers.													
04	Fire insurance industrial and commercial risks and consequential loss from fire insurance.													
05	Liability Insurance including public liability, products liability and professional indemnity													
06	Marine Insurance													
07	Motor insurance-private vehicles													
08	Motor insurance commercial vehicle													

Insurance

[Subsidiary]

TWENTY-NINTH SCHEDULE, FORM No. INS. 197E-3—continued

S.No.	Class of insurance business	Amount of Gross premium written during the month												
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total
	GENERAL INSURANCE BUSINESS													
09	Personal accident insurance													
10	Theft insurance including burglary, cash in transit and fidelity guarantee													
11	Workmen's compensation (i.e. classes of business not included under those listed above)													
12	Medical													
13	Miscellaneous insurance (i.e. classes of business not included under those listed above)													
	Sub Total													
	1% of (i) + (ii)													
	Penalty for late payment (add) .....													
	TOTAL													

**INSURANCE (INSURANCE APPEALS TRIBUNAL) RULES, 1988**

ARRANGEMENT OF RULES

*Rule*

1. Citation.
  2. Interpretation.
  3. Establishment of the Tribunal and tenure of office.
  4. Tribunal secretary.
  5. Presentation of appeals.
  6. Memorandum of appeal.
  7. Memorandum to be accompanied by appellant's statement and fees.
  8. Service of memorandum on Commissioner.
  9. Commissioner's dealing with memorandum.
  10. Notice to chairman of memorandum and hearing notice.
  11. Procedure at hearing of appeal.
  12. Admissibility of documents.
  13. Costs.
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[Subsidiary]

## INSURANCE (INSURANCE APPEALS TRIBUNAL) RULES, 1988

[L.N. 542/1988, L.N. 107/2002.]

### 1. Citation

These Rules may be cited as the Insurance (Insurance Appeals Tribunal) Rules, 1988.

### 2. Interpretation

In these Rules, unless the context otherwise requires—

“**appeal**” means an appeal to the Tribunal;

“**appellant**” means the person entering an appeal and the advocate or duly authorized agent of that person;

“**chairman**” means the chairman of the Tribunal appointed under section 169(2) of the Act and includes any person for the time being discharging the functions of the chairman;

“**memorandum**” means a memorandum of appeal presented under rule 6;

“**secretary**” means the secretary of the Tribunal appointed under rule 4(1);

“**Tribunal**” means the Insurance Appeals Tribunal established under rule 3.

### 3. Establishment of the Tribunal and tenure of office

(1) There shall be established a Tribunal to be known as the Insurance Appeals Tribunal for the purpose of hearing appeals under the Act.

(2) The chairman and members of the Tribunal appointed under section 169(2) of the Act shall hold office for such period not exceeding three years as may be specified in the instruments of their appointment and shall be eligible for reappointment.

(3) A person shall not be qualified to be appointed as the chairman or member of the Tribunal or if already appointed shall become disqualified if—

(a) he or his spouse or dependent child is or becomes a director, officer, employee or shareholder, whether directly or indirectly, of an insurer, broker or insurance agent; or

(b) he is adjudicated bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

(4) A member of the Tribunal may at any time resign his office by notice in writing addressed to the Minister.

(5) The Minister may cancel the appointment of the chairman or a member of the Tribunal on the ground of his infirmity, incapacity or misbehaviour, or if he is absent from three consecutive meetings of the Tribunal without leave of the Tribunal.

(6) Subject to these Rules, the Tribunal may act notwithstanding a vacancy in its membership, and the presence or participation of a person not entitled to be present or to participate in the proceedings of the Tribunal as a member shall not invalidate the proceedings.

### 4. Tribunal secretary

(1) The Minister shall appoint a person, who may be an officer in the office of the Commissioner of Insurance, to be the secretary to the Tribunal.

[Subsidiary]

(2) Subject to section 18 of the Act, the secretary shall, in matters relating to appeals to the Tribunal and procedure therefor, comply with any general and special directions lawfully given by the chairman.

(3) The secretary shall, by notice in the *Gazette*, notify his address for the presentation of service of documents for the purposes of these Rules, and shall in the same manner notify any change in that address.

#### **5. Presentation of appeals**

(1) Every appeal under section 146 of the Act by an insurer aggrieved by a refusal of the Corporation under that section shall be entered by presentation of a memorandum of appeal together with five copies thereof, to the secretary.

(2) Every appeal under section 173 of the Act by a person aggrieved by a decision of the Commissioner under the Act shall be entered by presentation of a memorandum of appeal together with five copies thereof, to the secretary.

(3) The fee for presentation of a memorandum of an appeal under section 146 shall be five thousand shillings.

(4) The fee for presentation of a memorandum of an appeal under section 173 shall be ten thousand shillings.

[L.N. 107/2002, s. 2.]

#### **6. Memorandum of appeal**

A memorandum shall be assigned by the appellant and shall set forth concisely under distinct heads, numbered consecutively, the grounds of appeal without any argument or narrative.

#### **7. Memorandum to be accompanied by appellant's statement and fees**

(1) Each copy of a memorandum shall be accompanied by a statement signed by the appellant setting out precisely all the facts on which the appeal is based and referring specifically to any documentary or other evidence which it is proposed to adduce at the hearing of the appeal; and there shall be annexed to the statement of facts a copy of each document referred to upon which the appellant proposes to reply as evidence at the hearing to the appeal.

(2) The fee for presentation of a memorandum shall accompany the memorandum and shall be paid by banker's draft drawn in favour of "The Permanent Secretary to the Treasury".

#### **8. Service of memorandum on Commissioner**

Within forty-eight hours after the presentation of a memorandum to the secretary, a copy thereof and of the statement of facts of the appellant and the document annexed thereto shall be served by the appellant upon the Commissioner or the Corporation as the case may be.

#### **9. Commissioner's dealing with memorandum**

(1) The Commissioner or the Corporation, as the case may be, shall, if he or it does not accept any of the facts of the appellant, within twenty-one days after service thereof under rule 8, file with the secretary a statement of facts together with five copies thereof and the provisions of rule 7 shall *mutatis mutandis* apply to that statement of facts.

(2) At the time of filing a statement of facts pursuant to subrule (1) the Commissioner of the Corporation, as the case may be, shall serve a copy thereof together with copies of any documents annexed thereto, upon the appellant.

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**[Subsidiary]**

(3) If the Commissioner or the Corporation, as the case may be, does not desire to file a statement of facts under this rule he shall forthwith give written notice to that effect to the secretary and to the appellant, and in that case the Commissioner or the Corporation shall be deemed at the hearing of the appeal to have accepted the facts set out in the statement of facts of the appellant.

**10. Notice to chairman of memorandum and hearing notice**

(1) As soon as may be convenient after receipt by him of the memorandum the secretary shall notify the chairman thereof.

(2) The chairman shall, after the Commissioner or the Corporation, as the case may be, has filed a statement of facts or has notified the secretary that he or the Corporation, does not intend to do so, fix a time, date and place for the meeting of the Tribunal for the purpose of hearing the appeal, and the secretary shall cause notice thereof to be served on the appellant and the Commissioner or the Corporation.

(3) The secretary shall cause to be supplied to each member of the Tribunal a copy of the notice of hearing and of all documents received by him from the parties to the appeal.

(4) Unless the parties to the appeal otherwise agree, each party shall be entitled to not less than seven days' notice of the time, date and place fixed for the hearing of the appeal.

**11. Procedure at hearing of appeal**

(1) At the hearing of an appeal the following procedure shall be observed—

- (a) the Commissioner or the Corporation, as the case may be, shall be entitled to be present or to be represented;
- (b) the appellant shall state the grounds of his appeal and may support it by any relevant evidence:

Provided that, except with the consent of the Tribunal and upon such terms as it may determine, the appellant may not at the hearing rely on any grounds of appeal other than a ground stated in the memorandum and may not adduce any evidence of facts or documents unless those facts have been referred to in, and copies of those documents have been annexed to, the statement of facts of the appellant;

- (c) at the conclusion of the statement and evidence on behalf of the appellant the Commissioner or the Corporation, as the case may be, shall be entitled to make such submissions, supported by such relevant evidence, as may be necessary to support his case, and the provisions of the proviso to subparagraph (b) shall *mutatis mutandis* apply to evidence of facts and documents to be adduced by the Commissioner or by the Corporation;
- (d) the appellant shall be entitled to reply but may not raise any new issue or argument;
- (e) the chairman or any member of the Tribunal shall be entitled at any stage of the hearing to ask such questions of the appellant or the Commissioner or the Corporation, as the case may be, or any witness examined at the hearing as he considers necessary to the determination of the appeal;
- (f) a witness called and examined by either party may be cross-examined by the other party to the appeal and if so cross-examined may be re-examined;
- (g) a witness called and examined by the Tribunal may be cross-examined by either party to the appeal;
- (h) the Tribunal may adjourn the hearing of the appeal for the production of further evidence or for other good cause, as it considers necessary, on such terms as it may determine;

[Subsidiary]

- (i) before the Tribunal considers its decision the parties to the appeal shall withdraw from the meeting, and the Tribunal shall deliberate the issue according to law and reach its decision thereon;
- (j) the decision of the Tribunal shall be determined by a majority of the members present and voting at the meeting, and in the case of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote;
- (k) minutes of the meeting shall be kept and the decision of the Tribunal recorded therein.

(2) The Tribunal may for good and sufficient cause and in particular where necessary or expedient in circumstances where publicity would prejudice the interests of justice, exclude from its proceedings persons other than the parties thereto and their legal representatives.

(3) The Tribunal may at any time in proceedings before it, and shall if a party requests, refer a question of law arising in the proceedings to the High Court, unless in the Tribunal's opinion, the raising of the question is merely frivolous and vexatious.

(4) Where a question of law has been referred to the High Court under paragraph (3), the High Court shall give its decision upon the question and the Tribunal shall dispose of the appeal in which the question arose in accordance with that decision.

(5) In this rule a question of law does not include a question whether there is sufficient evidence to justify a finding of fact by the Tribunal.

(6) In matters of procedure not governed by these Rules or the Act, the Tribunal may determine its own procedure.

**12. Admissibility of documents**

Except where the Tribunal in any particular case otherwise directs or where any party to the appeal objects, copies of documents shall be admissible in evidence:

Provided that the Tribunal may at any time direct that the original shall be produced notwithstanding that a copy has already been admitted in evidence.

**13. Costs**

The costs of an appeal shall be costs in the discretion of the Tribunal and shall be taxed by the Registrar of the High Court in the same manner as bills of costs in the High Court are taxed.

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**INSURANCE (STATISTICS) REGULATIONS, 1993**

[L.N. 171/1993, Corr. No. 32/1993.]

1. These Regulations may be cited as the Insurance (Statistics) Regulations, 1993, and shall be deemed to have come into operation on the 1st January, 1992.
  2. Every insurer registered or authorized to carry on insurance business in Kenya shall prepare the statistics in accordance with the Twenty-sixth Schedule and four copies thereof duly authenticated and certified in the manner shall be deposited with the Commissioner within six months, after the end of the period to which they relate.
-

Insurance

[Subsidiary]

TWENTY-SIXTH SCHEDULE  
 LONG-TERM AND GENERAL INSURANCE BUSINESS  
 KENYA INSURANCE STATISTICS  
 SECTION A – STATEMENT OF POSITION

Form No. INS. 18-1

(s. 18(4))

Name of Insurer	<i>All amounts in Kenya Shillings</i> As at 31 <sup>st</sup> December, 20 .....		
<i>Description of Items</i>	<i>Long-Term Insurance Business</i>	<i>General Insurance Business</i>	<i>Total Insurance Business</i>
ASSETS: 1. Cash in hand 2. Balance with: 2.1 Banks and other institutions inside Kenya 2.2 Banks and other institutions outside Kenya 3. Premiums outstanding with agents, brokers, clients 4. Domestic investment: 4.1 Government securities and bills 4.2 Local Government securities 4.3 All other 5. External Investment: 5.1 Government securities 5.2 All other 6. Loans and advances: 6.1 Policy holders 6.2 Public sector 6.3 Private sector			

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

Description of Items	Long-Term Insurance Business	General Insurance Business	Total Insurance Business
7. Fixed assets:			
7.1 Offices occupied by the company			
7.2 Commercial buildings			
7.3 Residential buildings			
7.4 All other			
TOTAL ASSETS			
LIABILITIES:			
1. Share Capital Paid up:			
1.1 Kenyan			
1.2 Non-Kenyan			
2. Profit and Loss before Taxation			
3. Policy Liabilities:			
3.1 Life Fund (Actual/Estimates)*			
3.2 Claims outstanding			
3.3 Bonus payment			
4. Current Liabilities:			
4.1 Unexpired risk reserve			
4.2 Management expenses			
4.3 Unexpired premium reserve			
4.4 All other			
TOTAL LIABILITIES			

\*Life fund should be shown at valuation in the year in which valuation takes place, and in other years as provided for in the books of the company.

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued  
SECTION B – PREMIUMS AND OTHER INCOMES RECEIVED

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS						GENERAL INSURANCE BUSINESS					
	Ordinary Life Business	Industrial Life Business	Super-annuation Business	Bond Investment Business	Total	Aviation	Engineering	Fire Domestic	Fire Industrial	Total	Workmen's Compensation	Miscellaneous
1. Gross Premium Written												
2. Less Reinsurances												
3. Less Refund of Premiums												
5. Net Premiums												
5. Other Income:												
5.1 Rent												
5.2 Interest												
5.3 Dividend												
5.4 All other												
5.5 Total Other Income												
6. Total All Income												
	GENERAL INSURANCE BUSINESS											
DESCRIPTION OF ITEMS	Liability	Marine	Motor Private	Motor Commercial	Personal Accident	Theft	Workmen's Compensation	Miscellaneous	Total			
1. Gross Premium Written												
2. Less Reinsurances												
3. Less Refund of Premiums												
4. Net Premiums												

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

DESCRIPTION OF ITEMS	GENERAL INSURANCE BUSINESS							Total	
	Liability	Marine	Motor Private	Motor Commercial	Personal Accident	Theft	Workmen's Compensation		Miscellaneous
5. Other Income:									
5.1 Rent									
5.2 Interest									
5.3 Dividend									
5.4 All Other									
5.5 Total Other Income									
6. Total All Income									

SECTION C – CLAIMS AND OTHER EXPENSES PAID

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS					GENERAL INSURANCE BUSINESS				
	Ordinary Life Business	Industrial Life Business	Superannuation	Bond Investment	Total	Description of Items	Aviation	Engineering	Fire Domestic	Fire Industrial
1. Claims by Death						1. Gross Claims				
2. Claims by Maturity						2. Less Reinsurance				
3. Surrenders						3. Net Claims				
4. Cash Bonuses										
5. Cash Benefits by Maturity										
6. Less Reinsurances										
7. Total										

Insurance

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS					GENERAL INSURANCE BUSINESS				
	Ordinary Life Business	Industrial Life Business	Superannuation	Bond Investment	Total	Description of Items	Aviation	Engineering	Fire Domestic	Fire Industrial
8. Other Expenses:										
8.1 Wages and Salaries										
8.2 Interest										
8.3 Rates on Property										
8.4 Commissions										
8.5 Rents										
8.6 All Other										
9. Total Other Expenses										
10. Total Net Claims and Expenses (7 + 9)										

	GENERAL INSURANCE—BUSINESS								
	Liability	Marine	Motor Private	Motor Commercial	Personal Accident	Theft	Workmen's Compensation	Miscellaneous	Total
1. Claims by Death									
2. Claims by Maturity									
3. Surrenders									
4. Cash Bonuses									
5. Cash Benefits by Maturity									
6. Less Reinsurances									
7. Total									

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

	GENERAL INSURANCE—BUSINESS								Total
	Liability	Marine	Motor Private	Motor Commercial	Personal Accident	Theft	Workmen's Compensation	Miscellaneous	
8. Other Expenses:									
8.1 Wages and Salaries									
8.2 Interest									
8.3 Rate on Property									
8.4 Commissions									
8.5 Rents									
8.6 All Other									
9. Total Other Expenses									
10. Total Net Claims and Expenses (7 + 9)									

SECTION D – PROFIT AND LOSS STATISTICS

Description of Items	Long-Term Insurance Business			General Insurance Business			Total Insurance Business
PART I – EXPENDITURE:							
1. Remuneration of Employees:							
1.1 Salaries and wages							
1.2 House Allowance							
1.3 Medical expenses							
1.4 Personal insurance (long-term)							
1.5 Contribution to pension, gratuities, provident fund, etc.							
1.6 N.S.F. contribution							
1.7 Leave allowance and passages							

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

Description of Items	Long-Term Insurance Business	General Insurance Business	Total Insurance Business
1.8 Directors' fees and allowances			
1.9 Other remuneration paid in kind (meals, uniform, house to office transport, other)			
TOTAL			
2. Operating Costs:			
2.1 Office rents			
2.2 Rates and parking charges			
2.3 Transport operating cost, travelling expenses and hotel accommodation			
2.4 Entertainments			
2.5 Rental of equipment			
2.6 Postage			
2.7 Telex, telephone, fax, etc.			
2.8 professional services, fees and expenses			
(i) Audit			
(ii) Legal			
(iii) Inspection			
(iv) Advertising			
(v) Bank charges			
(vi) Medical			
(vii) Computer services			
(viii) Actuarial fees			
(ix) Other			
Sub - Total			



[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

Description of Items	Long-Term Insurance Business	General Insurance Business	Total Insurance Business
2.9 Water and conservancy			
2.10 Electricity			
2.11 Stores and other related supplies			
2.12 Publications and books (newspapers, periodicals, etc.)			
2.13 Maintenance and repairs of equipment			
2.14 Donation and subscriptions			
2.15 tax, service charges, stamp duty, licences, etc.			
2.16 Insurance (General)			
2.17 Miscellaneous expenses (other operational costs)			
TOTAL			
3. Interest Paid Out			
4. Bonus and Dividend Paid Out			
5. Reinsurance:			
5.1 Facultative			
5.2 Treaty			
6. Commission/Brokerage Paid and Outstanding			
7. Claims Paid and Outstanding			
8. Surrenders (Long-Term)			
9. Annuities			
10. Depreciation			
11. Provision for Bad Debts, etc.			
12. Increase in Unexpired Risk Reserves (U.R.R.)			
13. Actuarial Reserve Net Additions			
14. Balance for the Year Carried to Appropriation Account			
GRAND TOTAL			

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

Description of Items	Long-Term Insurance Business	General Insurance Business	Total Insurance Business
<b>PART II: RECEIPTS:</b>			
1. Premiums Written:			
1.1 New Policies			
1.2 Running Policies			
1.3 Total			
2. Reinsurance recoveries			
3. Interest Received			
4. Commissions Received			
5. Dividends Received			
6. Rents Received			
7. Total (2+3+4+5+6)			
8. Profit on Sales of Assets			
9. Other Receipts (N.E.C.)*			
10. Decrease in Unexpired Risk Reserve			
11. Other recoveries			
12. Balance being Profit/Loss for the Year Carried to Appropriation Account			
<b>GRAND TOTAL</b>			

\* N.E.C.= Not elsewhere classified.

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS		TOTAL INSURANCE BUSINESS	
	Mortgage	Other	Mortgage	Other	Mortgage	Other
1. To Public Sector:						
1.1 Government						
1.2 Local authority						

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS		TOTAL INSURANCE BUSINESS	
	Mortgage	Other	Mortgage	Other	Mortgage	Other
1.3 Parastatal organization						
1.4 Total public sector						
2. To Private Sector:						
2.1 Enterprises:						
2.1 Agriculture and Forestry						
2.2 Fishing and Hunting						
2.3 Mining and quarrying						
2.4 manufacturing:						
2.4.1 Food						
2.4.2 Beverages and Tobacco						
2.4.3 Textile and footwear						
2.4.4 Furniture, timber and food products						
2.4.5 Paper printing						
2.4.6 Leather and rubber products						
2.4.7 Chemicals, non-metallic mineral products including petroleum products						
2.4.8 Metal product and machinery						
2.5 Building and construction						
2.6 Trade:						
2.6.1 Export						
2.6.2 Import						
2.6.3 Domestic						
2.7 Electricity and water						
2.8 Transport, storage and communications						

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

DESCRIPTION OF ITEMS	LONG-TERM INSURANCE BUSINESS		GENERAL INSURANCE BUSINESS		TOTAL INSURANCE BUSINESS	
	Mortgage	Other	Mortgage	Other	Mortgage	Other
2.9 Real estate						
2.10 Financial Institutions: 2.10.1 Hire purchase 2.10.2 Others						
2.11 Other service						
2.12 Not elsewhere specified						
3. Private Households and Private Non-Profit making Institutions: 3.1 Households 3.2 Non-profit making institutions						
TOTAL PUBLIC AND PRIVATE						

SECTION F – DETAILS OF POLICIES

Description of Items	Long-Term Insurance Business		General Insurance Business		Total Insurance Business	
	Mortgage	Other	Mortgage	Other	Mortgage	Other
1. LIFE POLICIES						
1.1 Number issued during period						
1.2 Sum assured						
1.3 Number issued and discontinued during period						
1.4 Sum assured						
1.5 Number discontinued but issued during previous period						
1.6 Sum assured						
1.7 Total number of policies in force						
1.8 Total sum assured						

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

Description of Items	Long-Term Insurance Business	General Insurance Business	Total Insurance Business
2. ANNUITIES			
2.1 Number granted during period			
2.2 Amount purchased			
2.3 Number discontinued			
2.4 Amount discontinued			
2.5 Total number of annuities in force			
2.6 Total sum assured			

SECTION G: BALANCE OF PAYMENTS (LONG-TERM INSURANCE BUSINESS)

DESCRIPTION OF ITEMS	AFRICA					Total
	Uganda	Tanzania	Other PTA Countries	Other African Countries	Total Africa	
1. AMOUNTS RECEIVED FROM:						
1.1 Gross premiums (including reinsurance):						
(i) Life assurance						
(ii) Annuities						
1.2 Commissions						
1.3 Gross claims (including surrenders):						
(i) Life assurance						
(ii) Annuities						
1.4 Other:						
(i) Investment income						
(ii) Repayment of Loans						

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

DESCRIPTION OF ITEMS	AFRICA					All Other Countries	Total
	Uganda	Tanzania	Other PTA Countries	Other African Countries	Total Africa		
(iii) Reserve values							
(iv) Expenses							
(v) All other							
TOTAL							
2. AMOUNT PAID TO:							
2.1 Gross premiums (including reinsurance):							
(i) Life assurance							
(ii) Annuities							
2.2 Commissions							
2.3 Gross claims (including surrenders):							
(i) Life assurance							
(ii) Annuities							
2.4 Other:							
(i) Investment income							
(ii) Repayment of Loans							
(iii) Reserve values							
(iv) Expenses							
(v) All other							
TOTAL							

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM NO. INS. 18-1—continued

SECTION H – BALANCE OF PAYMENTS (GENERAL INSURANCE BUSINESS)

Description of Items	AFRICA					All Other Countries	Total
	Uganda	Tanzania	Other PTA Countries	Other African Countries	Total Africa		
I. AMOUNTS RECEIVED FROM:							
1. Gross premiums under direct insurance							
2. Interest							
3. Commissions							
4. Reinsurance premiums							
5. Reinsurance claims							
6. Claims under direct insurance							
7. Other							
TOTAL							
II. AMOUNT PAID TO:							
1. Gross premiums under direct insurance							
2. Interest							
3. Commissions							
4. Reinsurance premiums							
5. Reinsurance claims							
6. Expenses							
7. Other							
TOTAL							

Insurance

[Subsidiary]

TWENTY-SIXTH SCHEDULE, FORM No. INS. 18-1—continued

ANNUAL VALUE OF MOTOR THIRD PARTY LIABILITY CLAIMS AND PREMIUMS  
(LAST 5 YEARS)

Year	1	2	3	4	5
VALUE OF PREMIUMS					
Value of Claims by type of damage:					
Death					
Personal injuries					
Accidental damage					
Fire					
Theft					
Property damaged					
Other					
TOTAL					
Claims per centage by type of damage:					
Death					
Personal injuries					
Accidental damage					
Fire					
Theft					
Property damage					
Other					
TOTAL					

Note.—Covers motor private and motor commercial classes.

SECTION J – NUMBER OF VEHICLES INSURED AND CLAIMS HANDLED  
(LAST 5 YEARS)

Year	1	2	3	4	5
Number of vehicles insured					
Number of claims handled					
Death					
Personal injuries					
Accidental damage					
Fire					
Theft					
Property damage					
Other					
TOTAL					

Note.—Covers motor private and motor commercial classes.

COMMENTS (Please indicate here any departure from instructions and give information on any abnormal changes which may have taken place during the reporting year.)

.....  
 .....  
 .....  
 .....



TWENTY-SIXTH SCHEDULE, FORM No. INS. 18-1—continued

I declare that the foregoing is made up from the information in the books of the company and to the best of my knowledge and belief it is correct.

Date: ..... Name of Principal Officer: .....

Signature .....

NOTES ON THE TWENTY-SIXTH SCHEDULE

[S. 18(4), Corr. 32/1993.]

KENYA INSURANCE STATISTICS

(Please read these notes carefully before completing the form)

1. Period covered by the Return (Reporting year)

Statistics are required on a calendar year basis in accordance with the definition of "Financial Year" under the Act.

2. Long term Insurance Business

Please note that you are required to provide information on Statement of position, premiums and other incomes received, claims and other expenses paid, profits and loss statistics, loans and advances, details of policies, balance of payments, etc.

[Corr. No. 32/1993.]

3. General Insurance Business

Information is required as in Long term Insurance Business above except for details of policies.

4. Statement of Position

Information on details of assets and liabilities of the company is required in this section separately for each class of insurance business.

Please note that total liabilities including share capital paid up must equal total assets. Share capital paid up should be broken-down into Kenya and Non-Kenya categories. Non-bonus charges accruing during the year features same things as out-standing premiums.

Information on Gross Fixed Capital Formation (G.F.C.F.) does not include purchase of second-hand goods (unless they are imported or existing buildings). Aggregation of G.F.C.F. is necessary for purposes of national accounts.

5. Premiums and Other Incomes Received

Statistics are sought by classes of insurance business, for example, ordinary life business, industrial life business, etc., for long term insurance business.

6. Claims and other Expenses Paid

Details required as in the section on premiums and other incomes received. Information is also sought on annuities for long term insurance business. Data must be provided for separate classes of insurance business.

[Subsidiary]

**7. Balance of Payments**

Details provided should include all amount actually received from and paid to any foreign country. Information required is on gross amounts, i.e. without off-setting amounts received against amounts paid.

**8. Total Business**

All entries in the form should be in respect of insurer's total business.

[Corr. No. 32/1993.]

**9. Declaration, Certification and Authentication**

Once the form is completed, a declaration must be made indicating that the information is obtained from the books of the company. Name and signature of the principal officer must be shown and the date.

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**INSURANCE (POLICYHOLDERS' COMPENSATION FUND) REGULATIONS, 2010**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Interpretation
  3. Establishment of the Policyholders' Compensation Fund.
  4. Tenure of office of Board members.
  5. Validity of Board proceedings.
  6. Disclosure of interest.
  7. Delegation by the Board.
  8. Use of the seal of Board.
  9. Contributions.
  10. Directions to the Board.
  11. Insolvency of an insurance company.
  12. Duty of the Board to determine and pay compensation
  13. Eligibility for compensation.
  14. Making a claim.
  15. Time limit for making a claim.
  16. Conditions of compensation.
  17. Limitations to compensation.
  - 18.
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[Subsidiary]

**INSURANCE (POLICYHOLDERS' COMPENSATION FUND) REGULATIONS, 2010**

[L.N. 86/2010, L.N. 199/2010.]

**1. Citation**

These Regulations may be cited as the Insurance (Policyholders Compensation Fund) Regulations, 2010.

**2. Interpretation**

In these Regulations, unless where the context otherwise requires—

“**Board**” means the Board of Trustees of the Policyholders’ Compensation Fund appointed under section 179(2) of the Act;

“**claim**” means any unpaid claim which arises as a consequence of an incident or event that involves a risk or peril insured by a Kenyan policy that was issued by an authorized insurance company that has become insolvent:

Provided that all claims attributable to or arising out of a single incident or event under a Kenyan policy or policies issued by the same insurance company shall be deemed to constitute a single claim.

“**contribution**” means the contribution paid under regulation 9;

“**Fund**” means the Policyholders’ Compensation Fund established under regulation 3;

“**Kenyan policy**” means a contract, evidenced by a policy, whose performance by an insurer would constitute the carrying on, by the insurer, of insurance business of any class in the Republic of Kenya:

Provided that a Kenyan policy shall not include—

- (a) a policy of re-insurance;
- (b) a superannuation scheme;

“**Managing Trustee**” means the Managing Trustee of the Fund appointed under section 179(5A) of the Act;

“**Policyholder**” means the holder of a Kenyan policy.

**3. Establishment of the Policyholders’ Compensation Fund**

(1) There is established a fund to be known as the Policyholders’ Compensation Fund which, shall vest in and be managed and administered by the Board.

(2) There shall be paid into the Fund—

- (a) monies appropriated by Parliament for the purposes of the Fund;
- (b) contributions of authorized insurance companies and their policyholders paid in accordance with the Act and these Regulations;
- (c) penalties payable under the Act and these Regulations;
- (d) monies borrowed for the purposes of the Fund;
- (e) monies received by the Board as grants or donations to the Fund; and
- (f) monies received by the Board as reimbursement.

(3) There shall be paid out of the Fund such compensation and expenses as are authorized to be paid out under the Act and these Regulations.

#### 4. Tenure of office of Board members

(1) A member of the Board other than an *ex officio* member, shall hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment and shall be eligible for reappointment for one further term of three years.

(2) The Minister may appoint members of the Board, other than an *ex officio* member, on different dates so that the respective expiry dates of the members' terms may fall on different days.

(3) A member of the Board, other than an *ex officio* member, may—

- (a) at any time resign from office by giving a notice, in writing, to the Minister;
- (b) be removed from office by the Minister, if the member—
  - (i) has been absent from three consecutive meetings of the Board;
  - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
  - (iii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months, or to a fine exceeding ten thousand shillings;
  - (iv) is incapacitated by prolonged physical or mental illness; or
  - (v) is otherwise unable or unfit to discharge his functions.

#### 5. Validity of Board proceedings

(1) The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

(2) The quorum for the conduct of the business of the Board shall be three members, excluding the *ex officio* members and the Secretary to the Board.

#### 6. Disclosure of interest

(1) A member of the Board who has any direct or indirect interest in any matter before the Board for consideration, shall disclose the nature of his interest at a meeting of the Board, have the disclosure recorded in the minutes of the meeting and shall not participate in any deliberation or decision of the Board relating to that matter.

(2) Where a member of the Board discloses that he is a member or a policyholder of a specified insurance company and is to be regarded as interested in any matter relating to the insurance company, the disclosure shall, for the purposes of paragraph (1), be sufficient disclosure of his interest in any such matter after the date of disclosure.

(3) A member may not attend, in person, a meeting of the Board in order to make a disclosure which he is required to make under this regulation if the member ensures that the disclosure is made by a notice, in writing, that shall be read and be considered at the meeting.

#### 7. Delegation by the Board

The Board may authorize, in writing, a member or a committee of the Board to perform, on its behalf, any of its functions specified in the authorisation.

#### 8. Use of the seal of Board

(1) The fixing of the common seal of the Board on any document shall be authenticated by the signatures of either the Chairman of the Board or the Managing Trustee, in addition to the signature of one other member of the Board authorized by the Board, through a resolution of the Board, to act for that purpose:

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**[Subsidiary]**

Provided that in the absence of both the Chairman and the Managing Trustee, the Board may, by resolution, authorize any two members of the Board to fix the seal and authenticate the fixing of the seal.

(2) A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

**9. Contributions**

(1) All insurers and their policyholders shall, in respect of each Kenyan policy, pay a contribution to the Board to finance the payment of compensation and to defray the expenditure involved in or relating to the performance of the functions of the Board.

(2) An insurer or a policyholder shall pay the contribution under paragraph (1), as the case may be, in such manner as the Board may, in consultation with the Minister, determine from time to time and declare by notice in the *Gazette*.

(3) Every insurer and every policyholder shall contribute an equal sum of one-quarter per cent (0.25%), respectively, of the premium payable by the policyholder in respect of the relevant policy issued to him by the authorized insurance company.

(4) Every insurer shall collect from its policyholder the contribution payable by the policyholder at the commencement of a policy issued to the policyholder and remit the contribution together with its own contribution to the Board, within thirty days of the issue or renewal of the policy.

(4A) An insurer who fails to pay its own contribution to the Board or who fails to account for or pay the contribution due from its policyholders (whether or not such contribution has been paid by the policyholder) shall, in addition to paying the contribution, be liable to pay a penalty of a sum equal to five per cent per month of the amount outstanding until the amount is paid in full.

[L.N. 199/2010, r. 2.]

(5) Every insurer shall submit to the Board, in the prescribed form—

- (a) a monthly return showing the total contributions payable to the Board for that month; and
- (b) an annual return signed by its auditor showing the total annual contribution payable to the Board, within three months of the end of the financial year of the Board.

(6) An insurer who does not submit monthly or annual returns as required under paragraph (5), shall be liable to pay a penalty charge of a sum equal to two and a half per cent (2 ½%) per month until the day return is filed.

(7) The Board may, through legal proceedings, recover from an authorized insurance company or its directors all sums due to it under this regulation.

**10. Directions to the Board**

The Minister may, from time to time, give directions to the Board, in writing, relating to the performance of any of its functions under the Act and these Regulations, and the Board shall perform its functions in accordance with the directions given by the Minister under this regulation.

**11. Insolvency of an insurance company**

(1) The Board shall not provide compensation to a policyholder under the Act and these Regulations unless the authorized insurance company that issued the Kenyan policy or policies has become insolvent.

[Subsidiary]

(2) For purposes of these Regulations, an authorized insurance company shall be considered to be insolvent if—

- (a) it is wound up by the Court under section 219 of the Companies Act (Cap. 486);
- (b) it is wound up pursuant to section 41 of the Act;
- (c) in the case of an insurance company carrying on general business, where a resolution for voluntary winding up is made in a meeting of creditors under section 286 of the Companies Act (Cap. 486); or
- (d) it is wound up by the court at the instance of the Commissioner of Insurance under section 123 of the Act.

(3) Notwithstanding paragraph (1), the Board shall not provide compensation under this regulation—

- (a) where the petition for the winding up of the insurance company by the court was presented before the 1st January, 2005; or
- (b) whether or not the Court has made an order for the winding up of the company after the resolution was passed, if the resolution was passed before the 1st January, 2005.

[L.N. 199/2010, r. 3.]

## 12. Duty of the Board to determine and pay compensation

(1) The Board shall, in consultation with the Minister, determine from time to time, the amount payable as compensation for different types or classes of insurance policies and pay such compensation to the policyholder as soon as is reasonably practicable after a claim is made.

(2) The Board shall publish, by notice in the *Gazette*, the amount payable as compensation determined under paragraph (1) and the date the amount payable as compensation shall come into force, which shall not in any case, be earlier than the date of publication in the notice.

## 13. Eligibility for compensation

(1) A policyholder shall not be eligible for compensation by the Board, in accordance with the provisions of the Act and of the Regulations, unless the policy of insurance held by the policyholder, at the material time, was a Kenyan policy.

(2) A policyholder of a Kenyan policy who has been prejudiced as a consequence of the inability, due to insolvency, of the insurer issuing the Kenyan policy to meet any liability arising under the policy shall be entitled to make a claim for compensation to the Board.

## 14. Making a claim

(1) A policyholder who is eligible for compensation may make a claim for compensation in the prescribed form and shall submit the form to the Managing Trustee.

(2) A claim form submitted under paragraph (1) shall be accompanied by such other documents in support of the claim as the Board may require.

(3) In making a claim for compensation a policyholder shall—

- (a) observe utmost good faith by making a full and honest disclosure, to the Board, of all material facts relating to his claim; and
- (b) provide any other information, whether on oath or otherwise, as may be required by the Board.

**[Subsidiary]**

(4) The Board may reject a claim and decline to pay any compensation of a policyholder who fails to comply with paragraphs (1), (2) or (3).

**15. Time limit for making a claim**

A policyholder who does not make a claim for compensation within two years of the insolvency of an authorized insurance company shall not be entitled to claim any compensation from the Board.

**16. Conditions of compensation**

(1) The right of any policyholder to compensation under these Regulations shall be subject to compliance of the policyholder with any conditions, relating to the total or partial assignment of the policyholders rights under or in respect of the relevant Kenyan policy, imposed by the Board, including—

- (a) any rights a policyholder may have in respect of any payments made by the policyholder to the insolvent insurance company as premiums, under the policy, after the insolvency; or
- (b) any rights a policyholder may have against any other person in respect of any event giving rise to any liability of the company under the relevant policy.

(2) Any payment made by any person, other than the Board, to the policyholder being a payment which is related to any liability of an insolvent company to the policyholder, may, if the Board so decides, be considered as payment, in whole or in part, of the compensation payable to the policyholder under the Act and these Regulations.

**17. Limitations to compensation**

(1) The Board shall not pay any amount as compensation to a policyholder who holds any Kenyan policy, on the insolvency of the insurance company which has issued the policy, if the liability of the company to the policyholder is duplicated by the liability of any other authorized insurance company which is not, for the purposes of these Regulations, insolvent.

(2) For purposes of paragraph (1), the liability of an authorized insurance company towards a policyholder is duplicated by the liability of another authorized insurance company if the other company also has the liability, under the terms of any other Kenyan policy which on the date of the insolvency of the first company, to pay the policyholder in respect of the matter to which the liability of the first company relates.

(3) The Board shall not pay any compensation to a policyholder where the Commissioner of Insurance has, pursuant to section 67C(2) of the Act, appointed a manager to assume the management, control and conduct of the affairs and business of an authorized insurance company which becomes insolvent thereafter, unless the claim relates to the liability of the said company arising out of an incident or event occurring before the date of appointment of the manager.

**18.** Revocation of LN 105 of 2004 The Insurance (Policyholders' Compensation Fund) Regulations, 2004, are revoked.

[L.N. 199/2010, r. 4.]

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