

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**ACTS, 2019**

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**THE INSURANCE (AMENDMENT) ACT, 2019****No. 28 of 2019***Date of Assent: 13th December, 2019**Date of Commencement: 31st December, 2019***AN ACT of Parliament to amend the Insurance Act****ENACTED** by the Parliament of Kenya, as follows –

**1.** This Act may be cited as the Insurance (Amendment) Act, 2019.

Short title.

**2.** The Insurance Act, hereinafter referred to as the “principal Act”, is amended in section 2 –

Amendment of s. 2 of Cap. 487.

(a) by deleting –

(i) the definition of “bond investment business”;  
and

(ii) the definition of “industrial life insurance business”.

(b) by deleting the definition of “long term insurance business” and substituting therefor the following new definition—

“long term insurance business” includes insurance business of all or any of the following classes—

- (a) life assurance;
- (b) annuities;
- (c) pensions (personal pension or deposit administration);
- (d) group life;
- (e) group credit;
- (f) permanent health;
- (g) investment (unit link and linked investments or non-linked investments), and

includes, in relation to any insurer, business carried on by the insurer as incidental to any such class of insurance business.

3. The principal Act is amended by repealing section 43A.

Repeal of s. 43A of Cap. 487.

4. Section 54 of the principal Act is amended—

Amendment of s. 54 of Cap. 487.

(a) by deleting subsection (6) and substituting therefor the following new subsection—

(6) An insurer that fails to comply with subsection (1) shall be liable to a penalty of two hundred thousand shillings and a further penalty of ten thousand shillings for each day after the expiry of the prescribed period during which the insurer remains non-compliant.

(b) by inserting the following new subsection immediately after subsection (6)—

(7) The penalty imposed under subsection (6) shall be payable into the Policyholders Compensation Fund.

5. Section 67C of the principal Act is amended—

Amendment of s. 67C of Cap. 487.

(a) in subsection (1), by deleting the words “minimum solvency margin” appearing in paragraph (a) and substituting therefor the words “capital adequacy ratios”;

(b) by inserting the following new subsection immediately after subsection (5)—

(5A) For the purpose of this section, preserving the assets of the insurer shall include realization of the assets of the insurer upon the approval of the Authority.

(c) by inserting the following new subsection immediately after subsection (10)—

(11) For the purpose of this section, where a moratorium is declared under subsection (10), a policyholder shall not be liable to pay any claim not payable by the insurer due to the moratorium.

6. Section 155 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)—

Amendment of s. 155 of Cap. 487.

(4) A person who fails to submit a return within the prescribed period shall be liable to a

penalty of ten thousand shillings and a further penalty of one thousand shillings for each day after the expiry of the prescribed period that the return is not submitted.

(5) The penalty referred to in subsection (4) shall be payable into the Policyholders' Compensation Fund.

7. Section 179 of the principal Act is amended—

Amendment of s.  
179 of Cap. 487.

- (a) in subsection (1), by deleting the words “insolvent insurers” appearing at the end thereof and substituting therefor the words “insurer placed under a manager appointed under section 67C (2) or whose license has been cancelled under the Act”;
- (b) in subsection (2A) by deleting paragraph (a) and substituting therefor the following new paragraph—
  - (a) provide compensation to claimants of insurers as provided under subsection (1);
- (c) by deleting subsection (4) and substituting therefor the following new subsections—
  - (4) The Board shall comprise of—
    - (a) a Chairman, appointed by the Cabinet Secretary;
    - (b) the Commissioner of Insurance or a representative appointed in writing;
    - (c) the Cabinet Secretary responsible for matters relating to finance or a representative appointed in writing;
    - (d) the Attorney-General or a representative appointed in writing;
    - (e) one person nominated by the body representing the interests of insurers;
    - (f) one person nominated by insurance brokers;
    - (g) one person representing the general public appointed by the Cabinet Secretary; and
    - (h) the Managing Trustee as an *ex officio* member without a right to vote.

(d) by inserting the following new subsections immediately after subsection (4)—

(4A) The chairman and the members appointed under paragraphs 4 (e), (f) and (g) may be appointed from amongst persons who have knowledge or experience in matters relating to insurance, finance, law, accounting, banking or actuarial science.

(4B) A person shall not be eligible for appointment under paragraphs (4) (e), (f) or (g) if that 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.

**8.** Section 197A of the principal Act is amended by adding the following new subsections immediately after subsection (7)—

(8) An insurer shall prepare and submit to the Authority premium levy returns as prescribed.

(9) Where an insurer fails to submit returns as prescribed, the insurer shall pay a penalty of two hundred thousand shillings and a further penalty of

Amendment of s.  
197A of Cap. 487.

ten thousand shillings for every day after the expiry of the prescribed period during which the document remains un-submitted and the penalty shall be payable to the Policyholders Compensation Fund.

9. Section 203 of the principal Act is amended by adding the following new subsections immediately after subsection (5)—

Amendment of s.  
203 of Cap. 487.

(6) An insurer shall prepare claims payment returns and submit them in a manner prescribed by the Authority.

(7) Where an insurer fails to submit returns as required under subsection (6), the insurer shall pay 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 returns remains un-submitted and the penalty shall be payable to the Policyholders Compensation Fund.