

INSURANCE REGULATORY AUTHORITY



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CIRCULAR NO. IC, RE IB 07/2014

**TO: INSURANCE COMPANIES
REINSURANCE COMPANIES
INSURANCE BROKERS**

**INSURANCE (AMENDMENT) ACT, (No. 1), 2014 AND THE FINANCE ACT,
(No. 38), 2013**

The Authority brings to your attention the following changes affecting the insurance industry contained in the Insurance (amendment) Act, (no. 1), 2014 and the Finance Act, (no. 38), 2013:

1. Section 7 (7) has been amended to enhance the fine for a person who furnishes misleading information to the Authority from ten thousand shillings to two hundred thousand shillings.
2. Restriction of foreign ownership for insurance companies and brokers under sections 22, 23 and 153 (2) has been removed and opens up ownership of insurance companies and brokers to citizens of the East African Community Partner States pursuant to EACpartner states' commitment to remove all restrictions on free movement of people, goods and services within the region by 2015.
3. Amendment under section 29 on appropriate reinsurance arrangements has introduced an additional requirement to enable the Authority approve reinsurance arrangements of insurers. Insurers are required to submit a reinsurance strategy which is developed by the board and management of the insurer.

4. A new sub-section (6) has been introduced under section 54 to provide for criminal offence for failure to comply with the provisions of section 54 of the Act in respect of preparation of annual audited accounts and statements.
5. Section 61 in respect of submission of annual accounts and statements has been amended to provide for earlier submission of annual audited accounts and statements. The annual accounts and statements will be submitted to the Authority within three months after the end of the period to which they relate.
6. Section 67C in respect of intervention of management of insurers by the Authority has been amended. This limits the appointment of the Statutory Manager to a competent person familiar with the business of insurers under sub-section 2.

A new proviso has been introduced which requires the Statutory Manager to remit any outstanding levies and penalties to the Policyholders Compensation Fund.

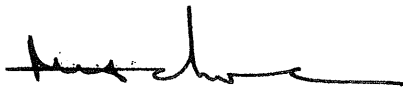
7. Section 68A on appointment of principal officer has been repealed and a new section introduced. This is to empower the Authority to carry out fit and proper test on a person managing, controlling, or having significant interest on the Insurer based on professional, financial and moral suitability.
8. Section 153 (5) on ownership of insurance agents has been repealed to remove the restriction on ownership of insurance agency business. This opens up ownership of agency business to foreign persons which was previously restricted to citizens of East African Community Partner States.
9. Section 169 on the Insurance Appeals Tribunal has been amended by establishing the position of Vice-chairman. Further section 170 has been amended to enhance the jurisdiction of the Insurance Appeals Tribunals to the rank of Resident Magistrate's Court in accordance with the Constitution of Kenya, 2010.

10. To harmonize the constitutional prosecutorial powers of the Director of Public Prosecution, sections 174 and 204 have been amended by replacing the word "Attorney-General" with the word "Director of Public Prosecutions".
11. Section 179 on Policyholders Compensation Fund has been amended by substituting the word "policy holder" with the word "claimant". This is to expand the scope of those entitled to compensation to include the beneficiaries to the policy.

A new subsection has been introduced under 2A by inserting the object of the Fund to participate in statutory management and liquidation of an insurer. This empowers the Fund to participate in statutory management and liquidation of insurers placed under statutory management.

12. A new sub-section (2) has been introduced under section 180 to make the regulations, subsidiary and other instruments prescribed under the Act to be subject to the provisions of Statutory Instruments Act, (No.23) 2013. This requires regulations and all statutory instruments under the Act to be laid before the National Assembly and subject to review after every 10 years among other requirements.
13. Section 197A has been amended by deleting paragraph (b) on reinsurance premium levy. This implies that insurers will no longer pay reinsurance premium levy to the Authority.

The effective date of these changes is 21st March 2014. Please take note and comply accordingly.



SAMMY M. MAKOVE

COMMISSIONER OF INSURANCE & CHIEF EXECUTIVE OFFICER

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