

LEGAL NOTICE NO. 26

THE INSURANCE ACT

(Cap. 487)

4 THE INSURANCE (MICROINSURANCE) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 180 of the Insurance Act, the Cabinet Secretary for the National Treasury and Planning makes the following regulations—

1. These Regulations may be cited as the Insurance (Microinsurance) Regulations, 2020. Citation.

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

“bundled microinsurance product” means a microinsurance product that covers one or more classes of—

- (a) general insurance business;
- (b) long term insurance business; and
- (c) general and long-term insurance business;

“general microinsurance product” means a health insurance contract, a contract covering personal belongings including dwellings, livestock, crops or tools of trade, or a personal accident contract, either on individual or group basis, according to the terms specified in the microinsurance criteria of the contract;

“fixed sum insurance” means an insurance contract under which an agreed specified fixed sum is payable or agreed specified fixed benefits shall be provided by the insurer to the policyholder on the occurrence of the insured risk regardless of the actual loss or damage suffered by the policyholder;

“grace period” means a specified period immediately following the premium due date during which a payment can be made to continue a policy in force without interruption;

“life microinsurance product” means a life insurance product designed in accordance with terms stated in the microinsurance criteria;

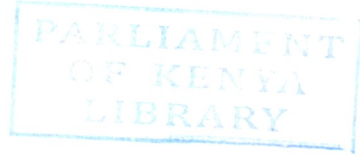
“master policyholder” in relation to a group microinsurance contract, means a person who is the legal holder of the policy issued in respect of that contract;

“microinsurer” means a person registered under the Act to carry on microinsurance business;

“microinsurance business” means insurance that is accessed by or accessible to the low-income population, including the underserved markets provided by a variety of different entities and managed in accordance with generally accepted insurance principles;

“microinsurance actuary” means a person who holds the qualifications of Certified Actuarial Analyst at a minimum; and

“waiting period” means the period an insured person shall be required to wait before some or all of that person’s insurance coverage shall come into effect.



3. Save as specifically provided, these regulations shall apply to any person engaged in microinsurance business. Scope of the regulations.
4. (1) The grace period for microinsurance contracts shall be at least forty-five days from the date when the premium falls due for payment. Grace periods.
- (2) A grace period shall not be provided for index-based microinsurance products.
5. A microinsurance contract shall satisfy the following criteria— Microinsurance criteria.
- (a) the policy shall offer protection to an individual or members of a group and their property and shall exclude third party liability risks;
  - (b) the contract term of the policy shall not exceed twelve months;
  - (c) the policy may be renewable at the end of the contract term without the need for a new policy document subject to the payment of premium;
  - (d) the amount of daily premiums or contributions shall not exceed forty shillings;
  - (e) the sum insured shall not be more than five hundred thousand shillings;
  - (f) the policy shall be a fixed sum insurance contract;
  - (g) the policy shall not provide for a change of the product's features during the term of the contract;
  - (h) the policy shall expressly state that the cover under the contract shall not commence until—
    - (i) the premium has been paid; or
    - (ii) where the contract provides for payment of the premium by instalments, the first instalment of the premium has been paid.
6. (1) A microinsurer shall apply to the Authority for approval of a microinsurance product and any amendments to the terms of the product in accordance with the product approval guidelines issued under the Act. Approval of microinsurance products.
- (2) In addition to the conditions specified in paragraph (1), a microinsurer shall submit—
- (a) a sample policy summary;
  - (b) the proposed commission rates or fee structures;
  - (c) a sales plan specifying how the product will be marketed and distributed; and
  - (d) copies of drafts of any agreements with intermediaries or other persons who shall be involved in the marketing or distribution of the product.
7. (1) The Authority may, by notice in writing, revoke the approval of a microinsurance product— Revocation of approval of microinsurance products.

- (a) on application by the microinsurer;
- (b) where the product ceases to meet the requirements of the Act or these regulations; or
- (c) where the microinsurer ceases to comply with the provisions of the Act or these regulations.

(2) A revocation of approval of an existing microinsurance product shall not affect any existing contracts.

8. (1) A microinsurer shall not alter the microinsurance product's features without the prior written approval of the Authority.

Change of product features.

(2) An application to change the microinsurance product's features shall be accompanied by a written certification by the microinsurance actuary that the revised terms have been determined in accordance with generally accepted actuarial methodologies.

(3) A change in the microinsurance product's features shall not be applicable to existing contracts.

9. (1) A microinsurer may offer a group policy that meets the following conditions—

Group microinsurance policies.

- (a) the master policyholder purchases the insurance policy on behalf of members of the group and their beneficiaries;
- (b) the group is identifiable and exists independently of the insurance contract;
- (c) the group is not formed by an intermediary or a registered insurer; and
- (d) the risks insured under the policy are related to the common interests or activities of the beneficiaries.

(2) Where group underwriting is applied, price discrimination shall not be allowed between individuals within the group.

(3) The master policyholder shall disclose the premium payable by each member of the group and the benefits payable to the members at the inception of the contract.

10. Any marketing material developed for a microinsurance contract shall be in the same language as the policy document and shall be in a clear, plain and easy to understand language.

Marketing materials.

11. (1) A microinsurer shall prepare a simple policy summary for each of its micro insurance policies with an express declaration in the summary that the product is a microinsurance product.

Policy summaries.

(2) A policy summary shall—

- (a) be no more than one A4 page with a minimum font size of 12 or in an electronic format that captures similar details that it will have if it was in paper form;
- (b) be written in clear, plain and easy to understand language with no or minimal use of technical and legal language;
- (c) where any technical or legal language is used, the language shall be fully explained;
- (d) be in the same language as the policy document; and
- (e) contain a summary of the cover provided and the key features of the policy.

(3) The policy summary shall be issued to prospective policyholders, in electronic form or otherwise, prior to selling the policy.

(4) Despite paragraph (2), the policy summary shall contain the following information—

- (a) the name of the microinsurer and the address of its principal office in Kenya;
- (b) a description of the insured risks and any exclusions or limitations that apply;
- (c) the duration of the policy, the period of cover, the grace period and any waiting periods that apply;
- (d) the principal benefits provided under the policy;
- (e) any obligations on a prospective policyholder to disclose material facts before purchasing the policy;
- (f) procedures for payment of premiums, date when premium is payable, amount of premium payable including consequences of non-payment of premiums;
- (g) whether, and in what circumstances the policy is renewable and the procedures for renewal;
- (h) whether, and in what circumstances the policy is renewable and the procedures for renewal;
- (i) the claims procedures;
- (j) the right to complain and the method of lodging a complaint;
- (k) a statement that the Policy Summary does not contain the full terms of the insurance policy, which are to be found in the policy document; and
- (l) how the policyholder may obtain a copy of the policy document.

12. (1) A microinsurer shall ensure that the policy document for a microinsurance contract—

Policy documents.

- (a) is written in clear, plain and easy to understand language with no, or minimal, use of technical and legal language; and
- (b) will be easily understood by any person to whom it is marketed and sold.

(2) A microinsurance policy document shall—

- (a) be written in English or Kiswahili or any other language:  
Provided that where a language other than English or Kiswahili is used, the issuer shall provide an English or Kiswahili translation of the microinsurance policy document;
- (b) state in clear terms that it is a microinsurance policy;
- (c) contain no or few exclusions; and
- (d) shall specify—
  - (i) the name of the microinsurer;
  - (ii) the name of the policyholder;
  - (iii) the insured risk;

- (iv) the compensation to be made, or the benefits to be provided, on the occurrence of the insured risk;
- (v) any exclusions applicable to the contract; and
- (vi) the procedure for making a claim.

13. (1) A microinsurer shall, within three working days of the commencement of a microinsurance contract, provide the policyholder with a policy document and a confirmation of receipt of premium.

Provision of policy documents and receipts.

(2) A microinsurer may provide the documents under paragraph (1) in electronic form.

14. (1) A microinsurer shall, within ten calendar days of receipt of a claim notification under a microinsurance policy, pay or reject the claim and, in the case of a rejection, notify the claimant in writing the reasons for the rejection.

Claims payments.

(2) Where a claim notification is received by a microinsurance intermediary, such notification shall be deemed to have been received by the microinsurer.

(3) Where a microinsurer is unable to complete the claim process due to a reasonable cause, the microinsurer shall seek an extension of time of not more than ten calendar days from the Authority to complete the claims process.

15. (1) Except as otherwise provided for under the Act, only a person registered in accordance with these regulations shall carry on microinsurance business in Kenya.

Registration requirements.

(2) The name of a registered microinsurer shall contain the word "microinsurance" in microinsurer's registered name.

(3) A registered insurer who intends to carry on microinsurance business shall set up a separate microinsurance company for that purpose.

(4) Where a registered insurer sets up a separate microinsurance company for the purposes of carrying on microinsurance business, the management and governance structure of the parent company may be used for the separate microinsurance company.

16. (1) Microinsurance registration applications shall be subject to similar registration requirements as insurers under the Act, but with capital, annual registration and operational requirements as set out in these regulations.

Application for registration.

(2) A person who has applied to be registered as a microinsurer shall have the higher of—

- (a) a minimum paid up capital of fifty million shillings; or
- (b) risk-based capital as may be determined by the Authority.

(3) A microinsurer shall apply to the Authority for the renewal of registration annually on or before the 30<sup>th</sup> of September.

(4) The reserving requirements for microinsurance products marketed or sold under by a microinsurer shall be the same as for products sold under general insurance business.

17. (1) A microinsurer shall establish and maintain a function and procedures for dealing with enquiries, complaints and disputes.

Complaints.

(2) A microinsurer shall within seven calendar days of receiving a complaint, resolve the complaint and notify the complainant of its decision.

18. (1) A microinsurer may appoint a microinsurance intermediary by entering into an agreement which shall specify the terms and conditions of the relationship between the microinsurer and the intermediary.

Appointment of microinsurance intermediaries.

(2) A microinsurance intermediary shall not require to be registered by the Authority.

(3) A microinsurer may appoint any person as a microinsurance intermediary:

Provided that—

- (a) the microinsurer is satisfied that the person is fit and proper to be a microinsurance intermediary;
- (b) the person has successfully completed a microinsurance training program approved by the Authority; and
- (c) the person shall be monitored and supervised as a microinsurance intermediary by the microinsurer.

19. (1) A microinsurer shall keep and maintain a register of all microinsurance intermediaries that it has appointed.

Register of microinsurance intermediaries.

(2) The register of microinsurance intermediaries shall include—

- (a) full name, business address and contact details of each intermediary;
- (b) the date of appointment and termination where applicable;
- (c) the volume of business generated by the microinsurance intermediary by class or type;
- (d) the source of microinsurance business; and
- (e) the amount of commissions or fees paid to the microinsurance intermediary.

20. (1) A microinsurer shall, at its expense, provide at least twenty-five hours of training to all its microinsurance intermediaries at the time of appointment.

Training obligations.

(2) A microinsurer shall, at its expense, ensure that its microinsurance intermediaries undergo refresher training of at least fifteen hours after every three years.

(3) A microinsurance training programme shall include training on—

- (a) the provisions of the Act and these regulations;
- (b) the duties and responsibilities of the intermediary in the distribution of microinsurance products;
- (c) the specific microinsurance products that the intermediary shall be authorised to distribute;
- (d) the insurance market;
- (e) claims and complaints handling procedures of the microinsurer; and

(f) consumer protection and the fair treatment of policyholders.

21. The commission or fee payable to a microinsurance intermediary by the microinsurer shall not exceed fifteen per cent of the premium paid. Commissions and fees.

22. In addition to any other reporting requirements under the Act, a microinsurer shall regularly report to the Authority on the following matters— Reporting requirements.

- (a) information in respect of microinsurance business as may be required by the Authority;
- (b) quarterly information regarding the handling of complaints or grievances made against the microinsurer or its microinsurance intermediaries not more than fifteen days after the end of the quarter to which it relates; and
- (c) annual reports on microinsurance intermediaries that were appointed by the microinsurer during the year not later than three months after the end of the year in which the appointments were made.

23. All the penalties and sanctions applicable to insurers under the Act shall apply to microinsurers with the necessary modifications. Enforcement.

24. A registered insurer engaged in microinsurance business shall continue providing such products and regularise compliance with these regulations within three years from the date of the coming into operation of these regulations. Transition.

Dated the 7th February, 2020.

UKUR YATANI,  
Cabinet Secretary,  
for National Treasury and Planning.

**EXPLANATORY MEMORANDUM**  
**MICROINSURANCE REGULATIONS, 2020**

**PART I**

**Name of Statutory Instrument** : Microinsurance Regulations, 2020

**Name of the Parent Act** : The Insurance Act, (Cap. 487)

**Enacted Pursuant to** : Section 180 of the Insurance Act

**Name of the Ministry/Department:** The National Treasury and Planning

**Gazetted on** : 28<sup>th</sup> February, 2020

**Tabled on** :

**PART II**

**1. Purpose of Statutory Instrument**

The purpose of the statutory instrument is to provide a framework for the operation of microinsurance business in Kenya. This is based on the need for enhanced access to insurance at affordable rates to the lower end of the market as set out in the Kenya Vision 2030. Insufficient safety nets for the low income populations offers credence to the need for development of the microinsurance legal framework in Kenya.

A study by FinAccess conducted in 2016 revealed that the rate of insurance penetration including NHIF was at 4.9% of GDP. The report provided that the access of NHIF increased by 5% in 2013 and the other form of insurance has remained stagnant. It further revealed that the majority of the insured are drawn from the formal sector, which accounts for about 5% of the total population. This therefore means that majority of Kenyans in the informal sector are not adequately provided for by conventional insurance. A different concept of insurance is therefore necessary to facilitate the required growth by tapping into the potential existing in the informal sector.



## **2. Legislative Context**

Insurance Regulations were amended through Legal Notice Number 57 of 2012 that introduced microinsurance as a new class of general insurance. The regulations further defined the term microinsurance.

The Authority through the support of the Financial and Legal Sector Technical Assistance Programme developed a policy paper on the Kenya Microinsurance. The paper recommended a legal framework that provides for the –

- a) definition that will be used by the Authority to approve a product as a microinsurance product;
- b) type of institutions that the Authority will allow to underwrite and sell microinsurance products;
- c) consumer protection requirements that microinsurance underwriters and agents will have to follow;
- d) prudential regulations that should apply to microinsurers;
- e) tax benefits needed for microinsurance companies;
- f) consumer education programmes that the Authority should initiate; and
- g) transition arrangement that will apply to current formal and informal underwriters and distributors who want to transition to the microinsurance licence.

It is out of the above recommendation that these regulations were formulated to come up with the mechanism of regulating the microinsurance business in Kenya. The regulations propose to allow for the licensing of microinsurers with a lower capital requirement as compared to the conventional insurers.

## **3. Policy Background**

The need to increase the uptake of insurance business in Kenya among the low-income population working in the informal sector, prompted the demand for microinsurance. This led to the development of the policy paper on Microinsurance in Kenya with the objective of formulating a legal and regulatory framework. The paper articulated the need for development of regulations to provide for a mechanism for regulating microinsurance business.

The Authority projects to increase penetration from 2.8% to 3.5% by the year 2022.

The policy paper emphasized that smallholder farmers, small traders and manufacturers and people generating livelihoods on a small and generally vulnerable scale constitute the base of the untapped microinsurance market in Kenya. The paper highlights that the banking sector has been active in tapping into this market through microfinance institutions and savings societies however the insurance industry is yet to make a meaningful impact.

#### **4.0. Consultation Outcome**

As provided for in Articles 10 and 118 of the Constitution of Kenya, the Insurance Regulatory Authority, consulted the stakeholders and the general public on the effect of the regulations. The responses informed the policy behind the draft regulations.

The following consultations and stakeholder forums were held.

#### **SCHEDULE OF INTERNAL STAKEHOLDERS**

<b>Date</b>	<b>Venue</b>	<b>Workshops / Forums</b>
20/02/2018	Insurance Regulatory Authority's Training Room	Exposure of the regulations to the Authority's staff
23/02/2018	College of Insurance	Stakeholder's Workshop for insurance companies
08/03/2018	Insurance Regulatory Authority's Training Room	Bancassurance Stakeholders.

The outcome of stakeholder and public consultations was in favour of the issuance of the Regulation.

The Draft Regulations were availed on the Insurance Regulatory Authority website <https://www.ira.go.ke> for public consultation and input received on [actreview@ira.go.ke](mailto:actreview@ira.go.ke)

The Authority will also engage in further stakeholder education and dissemination through both the print and electronic media, and other activities for public awareness, to ensure that all parties are aware of the existence of the Regulations and their effect.

## **5.0 Impact**

### **5.1 Rights and Freedoms**

The coming into effect of these Regulations will have no negative impact on the fundamental Rights and Freedoms of the citizens and residents of Kenya.

The Regulations will ensure penetration and inclusiveness of insurance services to the underserved in the market. This will enhance both the economic and social rights of the people of Kenya.

### **5.2 The Impact on the Private Sector**

The coming into force of the Regulations will have the effect of promoting insurance business and ensuring penetration and wider coverage to the most underserved in the market while maintaining a fair, safe and stable insurance industry.

### **5.3 The Impact on the Public Sector**

As part of product development, the Regulations seek to enable Micro, Small and Medium Enterprises (MSME) and agriculture sector have access to insurance products in a regulated environment. This will ensure inclusiveness and penetration of in the insurance services aiding in;

1. The Government's Big 4 Agenda;
2. Enhancing business in the 47 County Governments;
3. Insurance as a tool of financial inclusion to Kenyan citizens;
4. Achievement of Kenya's Vision 2030.

## **6.0 Monitoring and Review**

The Regulations will come into effect immediately upon publication. The implementation of these Regulations will be monitored through the supervision by Authority.

These Regulations will be reviewed in line with the Authority's periodic assessment of the impact of these Regulations on the insurance industry.

**7.0 Contact**

**Hon. (Amb.) Ukur K. Yatani, EGH**

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**NAIROBI**

**9<sup>th</sup> March, 2020**