

SPECIAL ISSUE

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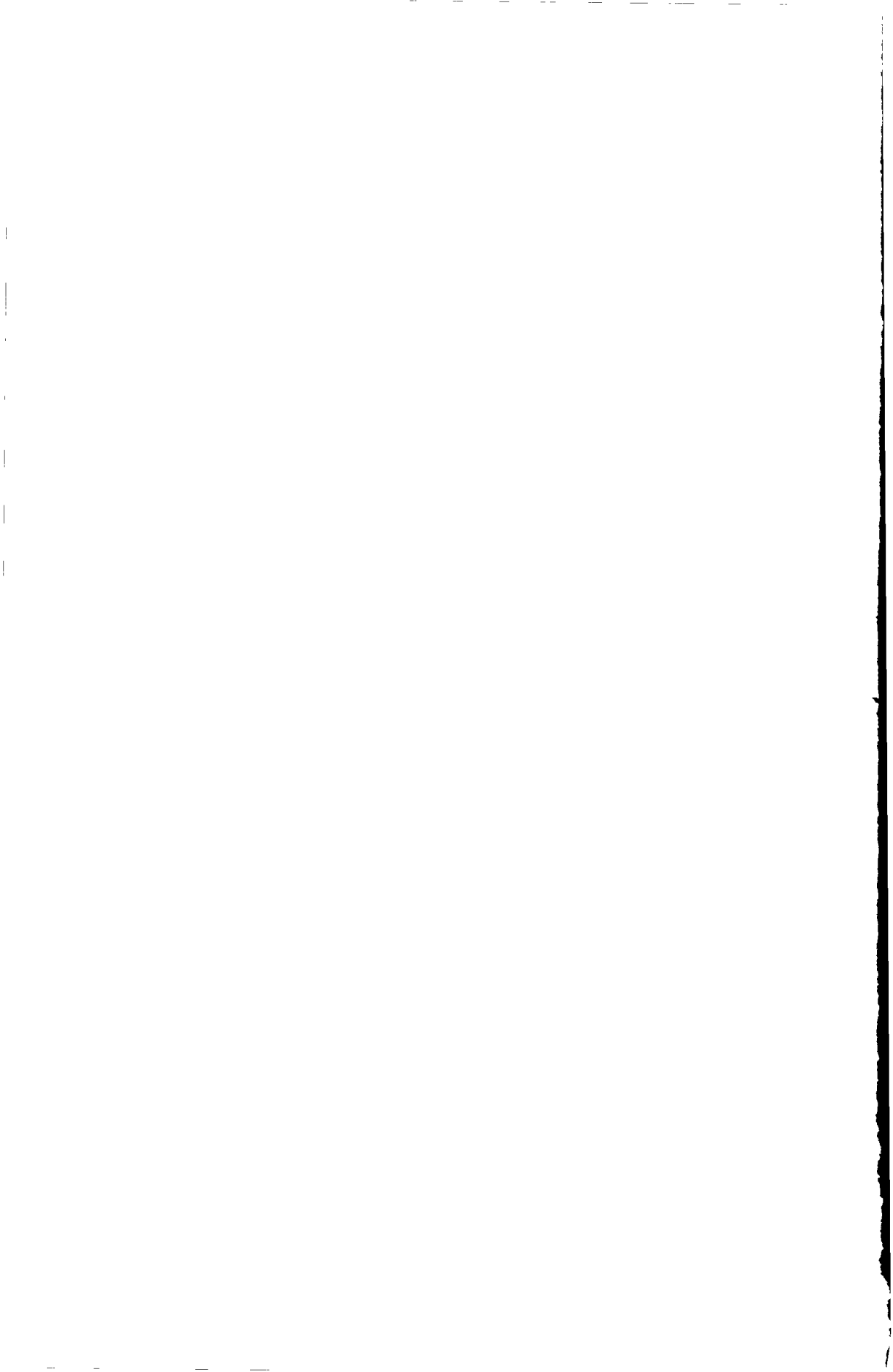
KENYA GAZETTE SUPPLEMENT

ACTS, 2017

NAIROBI, 23rd June, 2017

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THE INSURANCE (AMENDMENT) ACT, 2017**No. 22 of 2017***Date of Assent: 21st June, 2017**Date of Commencement: 7th July, 2017***AN ACT of Parliament to amend the Insurance Act****ENACTED** by Parliament of Kenya, as follows—

1. This Act may be cited as the Insurance (Amendment) Act, 2017.

Short title.

2. Section 2 of the Insurance Act, in this Act referred to as the “principal Act”, is amended by—

Amendment of section 2 of Cap. 487

- (a) deleting the definitions of the terms “admitted asset” and “admitted liability”;
- (b) inserting the following new definitions in proper alphabetical sequence—

“insurance group” includes a registered insurer and its subsidiary, or an insurer’s holding company, whether operating or non-operating, and its subsidiary;

“non-operating holding company” means a company, other than the insurer, which has control of an insurer and whose activities are limited to—

- (a) holding investments in its subsidiary;
- (b) holding property used by group members;
- (c) raising funds to—
 - (i) invest in, or to provide support to its subsidiary;
 - (ii) conduct its own activities;
 - (iii) provide administrative functions to;
 - (iv) support risk management; and
 - (v) provide financial services for efficient operation of the group.

3. Section 20 of the principal Act is amended in subsection (3) by deleting the words “until the date of the next renewal of registration”.

Amendment of section 20 of Cap. 487

4. Section 23 of the principal Act is amended in subsection (1) by deleting the words “or, if registered, shall have his registration renewed”.

Amendment of section 23 of Cap. 487

- No. 22**
- 5.** The principal Act is amended by repealing section 24. Repeal of section 24 of Cap. 487.
- 6.** Section 27 of the principal Act is amended by deleting the words “or shall not have his registration renewed, as the case may be”. Amendment of section 27 of Cap. 487.
- 7.** The principal Act is amended by repealing section 28. Repeal of section 28 of Cap. 487.
- 8.** Section 31 of the principal Act is amended by renumbering the existing provision as subsection (1) and adding the following new subsection – Amendment of section 31 of Cap. 487
- “(2)A licence issued under this section shall remain in force until cancelled under section 196”.
- 9.** Section 32 of the principal Act is amended in subsection (1) by— Amendment of section 32 of Cap 487.
- (a) deleting the word “admitted” appearing in paragraph (a) and substituting therefor the word “total”;
- (b) deleting the word “admitted” appearing in paragraph (b) and substituting therefor the word “total”. Amendment of section 41 of Cap 487.
- 10.** Section 41 of the principal Act is amended by inserting the following new subsection (3)—
- (3) The following assets shall neither be included in the capital available computation nor be used for the purposes of determining the insurer’s capital adequacy under this section—
- (a) goodwill and other intangible assets that exceed five percent of total assets;
- (b) deferred tax income or expenses and deferred tax assets;
- (c) assets pledged to support credit facilities obtained by an insurer or other specific purposes;
- (d) assets over their concentration limits;
- (e) all credit facilities granted by an insurer and secured by its own shares;
- (f) prepayments;
- (g) one hundred per cent of fixed assets and computer equipment;

- (h) unsecured loans;
- (i) receivables from insurers;
- (j) merchandise inventory;
- (k) such other assets as may be prescribed.

11. The principal Act is amended by inserting the following new section—

Insertion of section
43A of Cap. 487.

Admitted liabilities.

43A. (1) For purposes of this Act, a reference to admitted liabilities of an insurer in computing available capital 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 policies of long term insurance business.

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

- (a) liability in respect of a share capital or reserve in lieu of capital approved by the Commissioner;
- (b) liability in respect of such matters as the Commissioner may by notice in writing direct;
- (c) tax liability arising from an unappropriated or undistributed surplus of a statutory fund;
- (d) such other liability as may be prescribed.

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

12. Section 51 of the principal Act is amended in subsection (1) by deleting the word “admitted” and substituting therefor the word “total”.

Amendment of section 51 of Cap. 487.

13. Section 54 of the principal Act is amended in the proviso to subsection (1) by deleting the word “admitted” wherever it appears.

Amendment of section 54 of Cap. 487.

14. The principal Act is amended by inserting the following new section immediately after section 54—

Insertion of section 54A of Cap. 487.

Group Accounts.

54A. Where an insurer is a member of a group of companies, the group of companies shall submit audited group accounts.

15. Section 68A of the principal Act is amended by adding the following new subsection immediately after subsection (4)—

Amendment of section 68A of Cap. 487.

(5) The provisions of this section shall also apply to insurance groups in respect of its significant shareholders, the group directors and management as if they were an insurer.

16. Section 125 of the principal Act is amended by—

Amendment of section 125 of Cap. 487.

(a) deleting the number “(1)” appearing immediately before the words “where an insurer” in the opening statement; and

(b) deleting the word “admitted” appearing in paragraph (b).

17. Section 150 of the principal Act is amended in subsection (4)—

Amendment of section 150 of Cap. 487.

(a) by deleting the expression “subsection (1)” and substituting therefor the words “this section” by adding the words “or to imprisonment” for a term not exceeding one month or both” at the end.

18. Section 180 of the principal Act is amended by inserting the following new subsection immediately after subsection (1)—

Amendment of section 180 of Cap. 487.

(1A) Matters prescribed under subsection (1) may include regulations or guidelines on—

- (a) mitigation of group risk; and
- (b) prudential regulation of insurance groups.

19. Section 188 of the principal Act is amended by adding the following new subsection immediately after subsection (3)—

Amendment of
section 188 of
Cap. 487.

(4) This section shall not apply to a registered person who is an insurer.

20. Section 197A of the principal Act is amended in subsection (3) by deleting the expression “, or reinsurance premium paid or credited to a reinsurance business outside Kenya, as the case may be, under subsection (2)(b)”.

Amendment of
section 197A of
Cap. 487.

