

Kenya Gazette Supplement No. 230 (Acts No. 18)



REPUBLIC OF KENYA

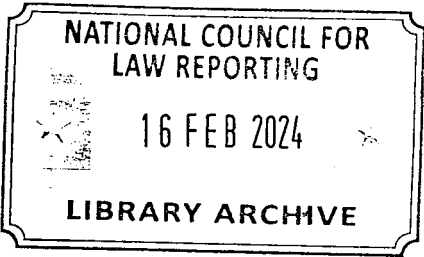
KENYA GAZETTE SUPPLEMENT

ACTS, 2023

NAIROBI, 27th November, 2023

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THE INSURANCE (AMENDMENT) ACT, 2023

No. 18 of 2023

Date of Assent: 23rd November, 2023

Date of Commencement: 11th December, 2023

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, 2023.

Short title.

2. Section 40 of the Insurance Act is amended by deleting the proviso to subsection (1).

Amendment of section 40 of Cap. 487.

3. The Insurance Act is amended by inserting the following new section immediately after section 67G—

Insertion of a new section 67H of Cap. 487.

Offences relating to the management of an insurer.

67H. (1) Any director, principal officer or management staff of an insurer who—

- (a) fails to take all reasonable steps to secure the compliance of a registered or licensed person with this Act;
- (b) fails to take all reasonable steps to secure the accuracy and correctness of any statement or report submitted under this Act or any other applicable written law;
- (c) fails to supply any information required or effect any directive issued under this Act;
- (d) fails, without lawful justification, to settle a judgment or any claim under this Act; or
- (e) without claim of right takes or converts any property of the insurer to his or her personal or associate's use or gain, including—
 - (i) permanently depriving the insurer of the property;
 - (ii) using the property as a pledge or security;

- (iii) receiving the insurer's property and failing to remit or reasonably account to the insurer; or
- (iv) dealing with the property of an insurer in such a manner that it cannot be returned in the condition in which it was at the time of the taking or conversion,

commits an offence under this Act.

(2) A person who commits an offence under this section shall be liable on conviction—

(a) on a first offence—

- (i) in the case of an individual, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years; or
- (ii) in the case of a company, to a fine not exceeding ten million shillings; and

(b) on any subsequent offence—

- (i) in the case of an individual, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years; or
- (ii) in the case of a company, to a fine not exceeding thirty million shillings.

(3) The court may make an order for the payment by the person convicted of an offence under this section of compensation to a person who suffered loss by reason of the offence.

(4) An order under subsection (3) may be in addition to or in substitution of any other penalty or remedy available to that person.

(5) The amount of compensation under subsection (3) shall be—

- (a) the loss sustained or adverse suffered by the person claiming compensation; or
- (b) the profits that have accrued to the person liable to pay the compensation.

4. Section 70 of the Insurance Act is amended by deleting the word “advisory” appearing in subsection (2).

Amendment of
section 70 of Cap.
487.

5. Section 150 of the Insurance Act is amended in the marginal note by deleting the word “surveyors” and substituting therefor the words “insurance surveyor”.

Amendment of
section 150 of
Cap. 487.

