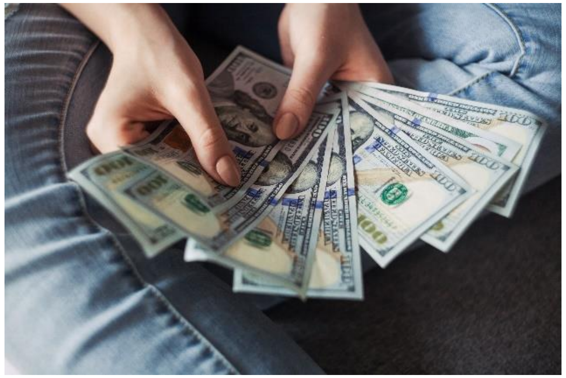
Cash before Carry: How the Amended Section 72 of the Insurance Act affects the Insurance Industry

The written laws (miscellaneous amendments) act came into effect on the 7th of July 2017 with the purpose of amending certain written laws in the mining and financial industries. The focus of this article is specifically the legal background and the ensuing challenges that led to the repeal and replacement of Section 72 of the insurance act.

History



As per the Insurance Act, 2009, Brokers could collect premiums and then send it to the insurer

The premium is the compensation to bind a legal contract of insurance. When you buy insurance, you are recognizing that there are things in your life with risks. You are transferring the risk from yourself to the insurer. By taking on the risk, the insurer is promising to pay should loss or damage occur due to covered perils.

The claim will be paid subject to the insurance terms during the insurance period. The legal basis for this in Tanzania as per the original Act will be our focus now.

Prior to the amendment of the law, the premium was to be paid by the client within 7 days inclusive of the date of inception for non-motor classes (for motor on inception). The amendment deletes Section 137, which is in regulation 35 of the act, relating to time limit for payment of premiums.

The premium payment law as per the Act, 2009 led to widespread challenges to the insurance industry, leading to the amendment of the Act.

The Written Laws (Miscellaneous Amendments) Act, 2017

Full premium payment into the Insurer's Account prior to or on inception.

The premium is the compensation to bind a legal contract of insurance. The amended act specifically amends this point, the details of which are in the following paragraph.

The law repealed and replaced Section 72 of the act, with Section 137 deleted entirely. The description of the amended sections are listed in full below:

Section 72

- Subsection 1: This subsection enables the commissioner of insurance to prescribe minimum rates of premium payable for different classes of insurance.
- Subsection 2: This subsection requires premium to be paid directly to the insurers.
- Subsection 3: This subsection requires Insurance to pay commission to brokers.
- Subsection 4: This subsection prohibits a broker from receiving any premium from the insured.
- Subsection 5: This subsection prescribes sanctions for controversial of subsection 4 above as follows;
  - Conviction to a fine of not less than 10 Million TZS but not exceeding 50 Million TZS or imprisonment of a term of not less than 2 years but not exceeding 5 years or both.
- Subsection 6: In addition to the above sanctions of subsection 5, a broker shall be responsible for any liabilities in addition to the penalties stated.

Section 137

This section, which provided time limit for payment of premiums, has been repealed entirely.

The amendment has led to greater liquidity in the market and therefore increased financial strength of the insurers. Insurers can no longer refuse claims settlement due to non-payment of premiums.

This article concludes by stating that premium payments **are to the insurer**. **Brokers and agents are not to be paid.**

Your options in premium payment are either full up-front payment or premium financing arranged by banks, for which the bank shall pay the full premium on and before date of inception of the cover and you will pay the bank in instalments with applicable terms and conditions.