

**THE AFRICAN RE-INSURANCE CORPORATION
(MANDATORY RE-INSURANCE CESSIONS)
ACT, 1994**

No. 2 of 1994

Date of Assent: 8th May, 1994

Date of Commencement: 1st January, 1978

ARRANGEMENT OF SECTIONS

Section

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Mandatory re-insurance cessions to the Corporation.
- 4—Re-insurance arrangement for local risks.
- 5—Right to accept or decline business offered.
- 6—Commissioner of Insurance to administer Act.
- 7—Offences and penalties.

An Act of Parliament to provide for mandatory re-insurance cessions to the African Re-insurance Corporation and for matters related or incidental thereto

WHEREAS by the Agreement establishing the African Re-insurance Corporation (in this Act referred to as the "Corporation") which came into force on 1st June, 1976, the Government of Kenya undertakes to guarantee that all insurance and re-insurance establishments registered or authorized to carry on insurance business in Kenya shall offer to place with the Corporation a minimum of five per cent of each of their re-insurance treaties, both present and future including life treaties undertaken on terms accorded to most favoured re-insurers, and also to ensure that national, local and foreign establishments engaged in direct insurance activities in Kenya conclude separate re-insurance treaties for the local risks;

WHEREAS under the said Agreement the Corporation may accept or decline all or part of the business offered to be placed with it;

No. 2

African Re-insurance Corporation (Mandatory Re-insurance Cessions) Act, 1994

AND WHEREAS it is expedient to make provisions giving legal effect to articles 27 and 28 of the said Agreement;

NOW, THEREFORE, BE IT ENACTED by the Parliament of Kenya as follows:—

Short title and commencement.

1. This Act may be cited as the African Re-insurance Corporation (Mandatory Re-insurance Cessions) Act, 1994 and shall be deemed to have come into operation on the 1st January, 1978.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Agreement” means the Agreement establishing the African Re-insurance Corporation;

“Corporation” means the African Re-insurance Corporation established by the Agreement;

Cap. 487.

“Commissioner of Insurance” means the Commissioner of Insurance appointed under section 3 of the Insurance Act;

“insurance business” has the meaning assigned to it in section 2 of the Insurance Act;

“insurance and re-insurance institution” means any insurance and re-insurance institution registered or authorized to carry on insurance business in Kenya.

Mandatory re-insurance cessions to the Corporation.

3. (1) Any insurance or re-insurance institution shall, on or after the commencement of this Act, offer to place with the Corporation a minimum of five per cent of each of their re-insurance cessions both present and future, including life treaties undertaken on terms accorded to most favoured re-insurers.

Cap. 487.

(2) The minimum re-insurance cessions prescribed by subsection (1) of this section are independent of any mandatory cessions prescribed under section 145 of the Insurance Act.

(3) Subject to any amendment to article 27 of the Agreement in respect of the minimum re-insurance cessions, the Minister for the time being responsible for insurance may by Order published in the Gazette vary the minimum re-insurance cessions specified in subsection (1) of this section.

Re-insurance
arrangements
for local risks.

4. (1) Where local insurance business is covered by global re-insurance treaties established outside Africa every national, foreign or local establishment engaged in direct insurance activities in Kenya shall, on or after the commencement of this Act, conclude separate re-insurance treaties for the local risks.

(2) Nothing in subsection (1) shall prevent any insurance institution from entering into a direct re-insurance treaty with the Corporation in respect of the whole or part of the risks undertaken by such institution or from making such other arrangements as are mutually acceptable to the Corporation and such institution.

Right to
accept or
decline business
offered.

5. (1) The Corporation may accept or decline all or part of the re-insurance cessions offered to be placed with it under this Act; and in that case the Corporation shall furnish the insurance or re-insurance institution concerned, as the case may be, if so required, with the reasons for its refusal.

(2) Where re-insurance cessions are refused under subsection (1) of this section any liability of the insurance or re-insurance institution shall cease.

Commissioner
of Insurance to
administer Act.

6. (1) The Commissioner of Insurance shall administer this Act.

(2) The Commissioner may in the discharge of his functions under subsection (1) of this section issue such directions as he deems necessary or expedient for carrying out the purposes of this Act.

Offences
and penalties.

7. (1) Any person who fails—

(a) to comply with section 3; or

(b) to comply with any directions issued by the Commissioner of Insurance under section 6;

shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings, and if the offence continues, to a further fine of two thousand shillings for every day during which the offence continues.

(2) Where a person guilty of an offence under subsection (1) of this section is a natural person that person shall be liable

in addition to, or in lieu of, a fine, to imprisonment for a term not exceeding three years.

(3) Where a person guilty of an offence under subsection (1) of this section is a body corporate, then notwithstanding the imposition of any penalty under this section, the commission of that offence shall constitute sufficient grounds whereby the Commissioner may apply to the court for winding-up of that body corporate, if such body is incorporated in Kenya.
