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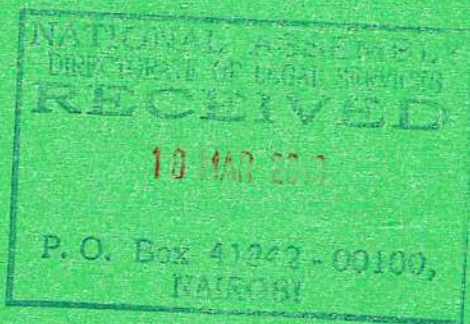
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**THE NATIONAL HOSPITAL INSURANCE FUND
(AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the National Hospital Insurance Fund Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Hospital Insurance Fund (Amendment) Act, 2019. Short title.

2. The National Hospital Insurance Fund Act hereinafter referred to as the “principal Act” is amended in section 15 by inserting the following new subsections immediately after sub-section (2)— Amendment of section 15 of Cap. 255.

(2A) Despite the provisions of subsection (2), a person who has retired from employment may opt to continue paying a standard contribution to the Board, equivalent to the contribution the person was paying immediately before the retirement.

(2B) For avoidance of doubt, a person who opts to continue paying a standard contribution equivalent to the contribution the person was paying immediately before retirement, shall be entitled to the medical cover and benefits ordinarily applicable for persons making such contributions.

3. Section 16 of the principal Act is amended by inserting the following new sub-section immediately after subsection (1) — Amendment of section 16 of Cap. 255.

(1A) A person liable to pay the standard contribution under section 15(2A) shall pay the contribution to the Board on the first day of each month or on such later date as the Board may specify, in such manner and at such rate as may be prescribed.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the National Hospital Insurance Fund Act Cap. 255 in order to provide an opportunity for persons who have retired from employment to continue paying standard contribution to the Board, equivalent to the contribution the person was paying immediately before the retirement. The Bill also seeks to ensure that where a retiree opts to continue paying a standard contribution equivalent to the contribution the person was paying immediately before retirement, the persons shall be entitled to the medical cover and benefits ordinarily accruing to persons making such contributions.

As it is presently, a person retiring from employment is automatically subjected to make special contributions hence enjoys less benefits in terms of cover limits. This is despite the fact that based on the number of years a person has worked, the person may still be in a position to continue paying standard contributions akin to the ones the person was paying prior to retirement.

This Bill does affect the functions of county governments as set out in the Fourth Schedule of the Constitution and is therefore a Bill concerning county governments.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 28th February, 2019.

EMMANUEL WANGWE,
Member of Parliament.

Section 15 of the National Insurance Fund Act which it is proposed to be amended—

Contributions to the Fund

15. (1) Subject to this Act, any person—
- (a) who is ordinarily resident in Kenya; and
 - (b) who has attained the age of 18 years; and
 - (c) whose total income, whether derived from salaried or self-employment, in the immediately preceding month, was not less than such amount as the Board, in consultation with the Minister, may prescribe shall be liable as a contributor to the Fund.

(2) A person liable as a contributor under this section shall pay to the Board—

- (a) in the case of a person whose income is derived from salaried employment, a standard contribution; or
- (b) in the case of a person whose income is derived from self-employment a special contribution, in accordance with this section.

(3) A contribution under subsection (2) shall be at such rate, depending on the person's total income, as the Board, in consultation with the Minister, may determine.

(4) A person to whom this section applies shall pay the contribution to the Board on the first day of each month or on such later date as the Board, in consultation with the Minister, may prescribe.

(5) In this section, "income" means such income as the Board, in consultation with the Minister and the Minister for Finance may prescribe for the purposes of this Act.

Section 16 of the National Insurance Fund Act which it is proposed to be amended—

16. Standard contributions

(1) A person liable to pay a standard contribution under section 15 shall pay such contribution through monthly deductions from his salary or other remuneration and the employer of such person shall be liable to deduct and to pay the contribution to the Board on behalf of and to the exclusion of that person.

(2) An employer shall not be liable under this section to pay the standard contribution in respect of any person employed by him for any month—

- (a) in which he was not at any time the employer of that person except where the employment is terminated in the month immediately preceding that month;
- (b) in which he was not the employer on the first day of that month, unless that contribution has not been paid before the day in that month when he becomes the employer, in which case he shall only become liable seven days after that day; or
- (c) in respect of which the salary or other remuneration payable by him after all other statutory deductions have been made therefrom, are not sufficient to pay that contribution.

(3) An employer shall be entitled subject to and in accordance with any regulations—

- (a) to deduct from the salary or other remuneration of any person employed by him, notwithstanding anything to the contrary in any other law, the amount of any standard contribution paid by him or to be paid by him within one month of such deduction, on behalf of that person;
- (b) to obtain a card for any person employed by him where that person does not provide him with a card issued to that person, or where that person's card has been lost or destroyed;
- (c) to retain possession of the card issued to a person employed by him, except when that person requires the card for the purpose of obtaining any benefit or making a claim under this Act until that card is required for surrender upon the issue of a new card for the next financial year.

(4) No sum deducted from the salary or other remuneration of an employee by his employer in accordance with the provisions of this Act shall be recoverable from the employer by that person after a stamp to the value of that sum has been affixed to a card issued to that person and duly cancelled:

Provided that nothing in this subsection shall affect the responsibility of the employer for the safe custody of that employee's card.

(5) If for any reason an employer is unable to ascertain whether any person employed by him is liable to pay the standard contribution for any month, he may apply to the Board for a decision, and, subject to the

provisions of section 31, any decision given by the Board thereon shall be final and binding on that employer.

(6) Any person who—

- (a) fails without lawful excuse to pay, within the time and in the manner prescribed by this Act in relation to him, any standard contribution which he is liable as an employer to pay under this Act; or
- (b) knowingly makes any deductions from the salary or other remuneration of any person employed by him, purporting to be a deduction in respect of any standard contribution, other than a deduction which he is authorised to make by this Act, commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings.

