



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (FIFTH SESSION)

THE NATIONAL ASSEMBLY

NOTIFICATION FROM THE SPEAKER

_____ (No. 6 of 2021) _____

SUBJECT: PASSAGE BY THE SENATE OF THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)

WHEREAS on 10th February 2021, the House resolved that, during the Short and Long Recesses of the Fifth Session, upon receipt of any Message relating to the Senate's Amendments to a Bill originating in the National Assembly, the Speaker shall forthwith refer the Schedule of the Senate's Amendments to the relevant Committee for consideration pursuant to the provisions of Standing Order 145 (*Senate amendments to Bills originating in the National Assembly*), and report such fact to the House on resumption;

FURTHER WHEREAS, following its passage by the National Assembly on 29th September 2021, National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No. 21 of 2021) was referred to the Senate for consideration;

AND WHEREAS on Tuesday, 7th December 2021, the Speaker received a Message from the Senate forwarding the Schedule of Senate's Amendments to the National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No. 21 of 2021);

NOWTHEREFORE, it is hereby **NOTIFIED** to all Members of the National Assembly and the general public -

- 1. THAT**, the Schedule of Senate's Amendments to the said Bill (as hereby attached) now stand referred to the Departmental Committee on Health for consideration;
- 2. THAT**, in view of the priority accorded to the Bill, the Committee is required to expedite the consideration of the Senate's Amendments and submit its report to the Speaker within seven (7) days, for circulation to all Members; and,
- 3. THAT**, the Leader of the Majority Party has notified the Speaker of the desire of the Majority Party to have the said Bill included in the list of business to be considered by the House during *Special Sitzings* of the House to be convened following Speaker's approval before the end of the year, pursuant to the provisions of Standing Order 29.



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, 7th December, 2021

Senate's Amendments

to the

**NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)**

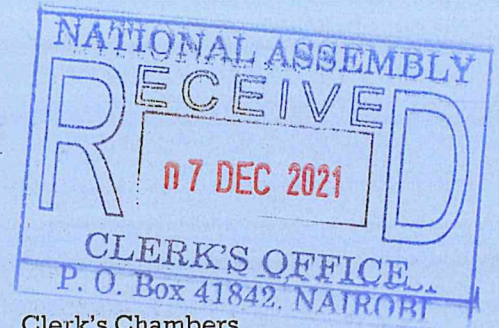
REPUBLIC OF KENYA



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PARLIAMENT

OFFICE OF THE CLERK OF THE SENATE



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

**SENATE AMENDMENTS TO THE NATIONAL HEALTH INSURANCE FUND
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 21 OF 2021)**

The following amendments to the **National Health Insurance Fund (Amendment) Bill (National Assembly Bill No. 21 of 2021)** were passed by the Senate on Thursday, 2nd December, 2021-

CLAUSE 7

THAT clause 7 of the Bill be amended-

- (a) in paragraph (d) by deleting the proposed new definition of the word "employer" and substituting therefor the following new definition-

"employer" means a person, national government or national government entity, county government or county government entity, firm, corporation or company who or which has entered into a contract of service with an individual.

- (b) in paragraph (k) in the proposed new definition of the word "accreditation" by deleting the words "relevant body" appearing immediately after the words "provider by the" and substituting therefor the word "Board"; and

- (c) in the proposed new definition of the word "health care provider" by inserting the word "promotive" immediately after the words "palliative, convalescent, preventative".

CLAUSE 8

THAT clause of the Bill be amended-

- (a) in paragraph (b) in the proposed new paragraph (a) --

- (i) by deleting subparagraph (iv) and substituting therefor the following new subparagraph-

(iv) funds from the national government, county governments and their respective entities for the administration of the

compulsory public service employee's insurance benefit scheme or an employer who is not a national government, a county government or their respective entities, for the administration of employee benefits;

- (ii) in subparagraph (v) by deleting the word "funds" appearing immediately before the words "from post retirement funds" and substituting therefor the word "contributions".

CLAUSE 9

THAT clause 9 of the Bill be amended-

- (a) in the proposed new subsection (1) by-

- (i) deleting paragraph (d) and substituting therefor the following new paragraph -

(d) one person nominated by the Kenya Medical Association;

- (ii) in paragraph (g) by deleting the word "one person" appearing immediately before the words "not being a Governor" and substituting therefor the words "two persons";

- (b) in the proposed new subsection (1A) by deleting the words "paragraphs (f) and (g)" appearing immediately after the words "appointed under" and substituting therefor the words "paragraphs (e), (f), (g) and (h)".

CLAUSE 10

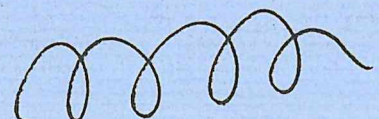
THAT clause 10 of the Bill be amended-

- (a) in paragraph (b) in the proposed new paragraph (c) by deleting the words "Cabinet Secretary" appearing immediately after the words "consultation with the" and substituting therefor the words "respective regulatory bodies specified under section 60 of the Health Act;

- (b) by inserting the following new paragraph immediately after paragraph (d)-

(da) by inserting the following new subsection immediately after subsection (1)-

(2) The Board shall facilitate public participation and stakeholder engagement in the carrying out of its functions under this Act.



CLAUSE 14

THAT clause 14 of the Bill be amended in the proposed new section 10(2) by deleting the word "Bachelor's" appearing immediately after the words "at least a" and substituting therefor the word "Master's".

CLAUSE 15

THAT clause 15 of the Bill be amended in the proposed new section 10A by inserting the following new subsection immediately after subsection (1)-

(1A) A person is qualified for appointment as a corporation secretary under subsection (1) has been a member of the Institute of certified Public Secretaries for at least ten years and the person is in good standing with the Institute.

CLAUSE 19

THAT clause 19 of the Bill be amended-

(a) in paragraph (c) by deleting subparagraph (ii);

(b) in paragraph (d) by deleting the proposed new paragraph (e) and substituting therefor the following new paragraph-

(e) in the case of any other employer under subsection (1A)(c), a matching contribution equal to that which their employee is liable to contribute under subsection (1)(c) subject to section 6(c).

(c) by inserting the following new paragraph immediately after paragraph (d)-

(da) by inserting the following new subsection immediately after subsection (2)-

(2A) An employer other than the national government or county governments or their entities liable to pay a matching contribution under section 15 may be exempted from paying such matching contribution, if that employer has procured a private health insurance cover for its employees and the benefits are equal to or better than the benefits that the employees are entitled to under this Act.

(2B) An employer who intends to be exempted under subsection (2A) shall submit an application to the Board in writing together with a certificate issued by the Insurance Regulatory Authority to that employer--

(a) certifying that the respective employees have been insured by a private health insurer;

(b) specifying the details of the cover and the benefits; and

(c) specifying the validity period of the private health insurance cover.

(2C) The Board, -

(a) shall determine an application under subsection (2B) within thirty days of receipt; and

(b) may grant the exemption if the Board is satisfied that the private health insurance is adequate.

(d) in paragraph (i) in the proposed new subsection (6) by deleting the word “may” appearing immediately after the words “Cabinet Secretary” and substituting therefor the word “shall”.

CLAUSE 20

THAT clause 20 of the Bill be amended in paragraph (f) by deleting the words “one million” appearing immediately after the words “therefor the words” in subparagraph (ii) and substituting therefor the words “five hundred thousand”.

CLAUSE 21

THAT clause 21 of the Bill be amended-

(a) in paragraph (b) in the proposed new subsection (1) by deleting the proviso;

(b) in paragraph (c) by inserting the words “that would have been covered by the Fund” immediately after the words “pay the costs”;

(c) by inserting a new paragraph immediately after paragraph (c)-

(d) where an employer is a national government, county government or a national or county government entity, the respective accounting officer shall be personally liable for the costs that would have been covered by the Fund and incurred by the employee when seeking treatment from a contracted health care provider during the period when the contribution is due.

CLAUSE 23

THAT clause 23 of the Bill be amended by deleting the words "by the youth" appearing immediately after the words "inserting the words" and substituting therefor the words "by unemployed persons".

CLAUSE 26

THAT clause 26 of the Bill be amended in paragraph (c) by-

(a) deleting the proposed subsection (3) and substituting therefor the following new subsections--

(3) The Board shall, in consultation with the Cabinet Secretary, prescribe benefits payable from the Fund including benefits available with respect to emergency treatment for -

- (a) primary angioplasty;
- (b) thrombolysis;
- (c) thrombolysis and rescue angioplasty, or
- (d) such other treatment as the Board may determine.

(3A) The benefits payable from the Fund shall be subject to such limits, and conditions as the Board may prescribe in regulations:

(b) deleting the proposed new subsection (3B) and substituting therefor the following new subsections-

(3B) The Board shall, every two years, carry out a review of the applicable tariffs payable to the Fund under section 15 and payable out of the Fund to empaneled contracted health care providers.

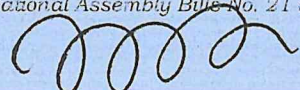
(3C) The Board shall use the approved risk spreading mechanism, approved claims administration services on benefits of outpatient, inpatient and on employees' benefits scheme as provided for under sections 3(iv) and (v), 15, 22 and 43.

CLAUSE 27

THAT clause 27 of the Bill be amended in the proposed new section 23 by-

(a) renumbering the provision as subsection (1); and

(b) inserting the following new subsection immediately after subsection (1)-



(2) The Board shall make regulations for the better carrying out of the provisions of this section.

CLAUSE 33

THAT clause 33 of the Bill be amended-

(a) paragraph (b) in the proposed new subsection (1) by deleting the words "accreditation bodies" and substituting therefor the words "regulatory bodies specified under section 60 of the Health Act".

(b) by deleting paragraph (d) and substituting therefor the following paragraph-

(c) deleting subsection (3) and substituting therefor the following new subsections-

(3) The Board may, at any time, revoke any empanelment under this section.

(3A) Where the Board intends to revoke the empanelment of a health provider under subsection (3), the Board shall notify the health care provider of the intended revocation, in writing, setting out the reasons for revocation of empanelment.

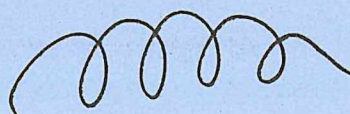
(3B) A health provider may, upon receiving a notification under subsection (3A) submit a written response to the notification within seven days.

(c) by deleting paragraph (e) and substituting therefor the following new paragraph-

(e) inserting the following new subsections immediately after subsections (3) -

(4) A healthcare provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation.

(5) The Board shall cause the name of every healthcare provider whose empanelment is revoked to be published in the Gazette and in at least three newspapers with nationwide circulation.



CLAUSE 35

THAT clause 35 of the Bill be amended in paragraph (c) by deleting the words "one million shillings or to imprisonment for a term not exceeding twenty-four months" appearing immediately after the words "therefor the words" and substituting therefor the words "one hundred thousand shillings or to imprisonment for a term not exceeding six months".

CLAUSE 36

THAT clause 36 of the Bill be amended by-

(a) by inserting the following new paragraph immediately before paragraph (a)-

(Aa) in paragraph (a) by inserting the words "on the advice of the Central Bank of Kenya" immediately after the words "a reputable bank".

CLAUSE 39

THAT the Bill be amended by deleting clause 39 and substituting therefor the following new clause-

Amendment **39.** The principal Act is amended by deleting of section 38 section 38 and substituting therefor the of No. 9 of following new section-
1998.

Annual
reports.


38. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year.

(2) The Cabinet Secretary shall, within three months of submission of the report under subsection (1), transmit the report to Parliament.

CLAUSE 44

THAT clause 44 of the Bill be amended by deleting the proposed new section 45A and substituting therefor the following new sections-

Application **45A.** The provisions of the Insurance Act of Cap 487. shall apply to the Fund only in respect to risk spreading and claims administration services.



Application of No. 3 of Benefits Act shall apply to Fund only with respect to post-retirement medical contributions.

NEW CLAUSE 26A

THAT the Bill be amended by inserting the following new clause immediately after clause 26-

Insertion of **26A.** The principal Act is amended by inserting new section the following new section immediately after 22A in No. 9 of section 22-1998.

Non- withdrawal of benefits. **22A.** (1) The Board shall not withdraw the benefits of a person undergoing treatment for a chronic illness.

(2) The Board shall, in making regulations for determining benefits under the Fund ensure that the Fund shall meet the costs of a contributor accessing inpatient services at any empaneled health care provider.

Signature: 

Date: 3rd December, 2021