

Approved for tabling

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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

DEPARTMENTAL COMMITTEE ON HEALTH

.....

REPORT ON-
THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021 (*NATIONAL ASSEMBLY BILL NO. 21 OF 2021*)

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 AUG 2021	DAY: Thurs
TABLED BY:	Hon. Sabina Chge Chair, Health
CLERK-AT THE-TABLE:	Miriam Wanjiru

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2021

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CHAIRPERSON'S FOREWORD

Article 118(1) (b) of the Constitution provides that, "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees*". Standing Order 127 (3) provides that "*the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House*"

The National Hospital Insurance Fund (Amendment) Bill (*National Assembly Bill No. 21 of 2021*) underwent First Reading on 9th June, 2021 and was committed to the Departmental Committee on Health for consideration and reporting to the House.

This report contains deliberations on the Bill. Most importantly, the Bill seeks to amend the National Hospital Insurance Fund Act, 1998, to establish the National Health Scheme and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver the Universal Health Coverage.

Following placement of advertisements in the print media on 10th June, 2021 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received memoranda from ten (10) stakeholders namely; The Ministry of Health, The National Hospital Insurance Fund, Kenya Medical Practitioners, Pharmacists and Dentists Union, Dr. Kahura Mundia, the National Gender and Equality Commission, the Central Organization of Trade Unions (COTU), Federation of Kenya Employers, British-American Insurance Company Limited (BRITAM), the Kenya Association of Private Hospitals, and the Kenya Union of Nutritionists and Dietitians. The public participation meetings was held via the ZOOM video online platform on 30th June, 2021.

On behalf of the Departmental Committee on Health and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the National Hospital Insurance Fund (Amendment) Bill (*National Assembly Bill No. 21 of 2021*). The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made played significant role in preparation and production of this report.

It is my pleasure to report that the Committee has considered the National Hospital Insurance Fund (Amendment) Bill (*National Assembly Bill No. 21 of 2021*) and have the honour to table in the House the Committee's report on the Bill with recommendation that the House passes it with amendments as proposed.

HON. SABINA CHEGE, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH

PART I

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;
 - a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
 - b) *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
 - c) *Study and review all legislation referred to it;*
 - d) *Study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
 - e) *Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - f) *Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204;*
 - fa) *Examine treaties, agreements and conventions;*
 - g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - h) *Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - i) *Examine any questions raised by Members on a matter within its mandate*

1.2 COMMITTEE SUBJECTS

2. The Second Schedule of the Standing Orders on Departmental Committees outlines the subjects of the Committee's mandate as health, medical care and health insurance.
3. In executing its mandate, the Committee oversees the Ministry of Health, its Semi-Autonomous Government Agencies, Regulatory Bodies and Health Advisory Bodies as follows:
 1. Kenyatta National Hospital (KNH)
 2. Moi Teaching and Referral Hospital (MTRH)
 3. Kenyatta University Teaching Referral and Research Hospital (KUTRRH)
 4. Kenya Medical Training College (KMTC)
 5. Kenya Medical Supplies Authority (KEMSA)
 6. Kenya Medical Research Institute (KEMRI)
 7. National Hospital Insurance Fund (NHIF)
 8. Pharmacy and Poisons Board (PPB)
 9. National AIDS Control Council (NACC)
 10. National Cancer Institute (NCI)
 11. Kenya Nuclear Regulatory Authority (KENRA)
 12. The Mathari National Teaching and Referral Hospital (MNTRH)
 13. Kenya Health Professionals Oversight Authority (KHPOA)
 14. Kenya Health Human Resource Advisory Council (KHHRAC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Health was re-constituted by the House in July, 2020 and comprises the following Members:

Hon. Sabina Chege, MP (**Chairperson**)

Muranga County

Jubilee Party

Vice-Chairperson

Hon. Joshua Kutuny, MP

Cherengany Constituency

Jubilee Party

Hon. (Dr.) Eseli Simiyu, MP
Tongaren Constituency

Ford Kenya Party

Hon. Gideon Ochanda, MP
Bondo Constituency

ODM Party

Hon. (Dr.) James Nyikal, MP
Seme Constituency

ODM Party

Hon. Alfred Agoi Masadia, MP
Sabatia Constituency

ANC Party

Hon. (Dr.) James K, Murgor, MP
Keiyo North Constituency

Jubilee Party

Hon. Muriuki Njagagua, MP
Mbeere North Constituency

Jubilee Party

Hon. (Dr.) Mohamed D. Duale, MP
Daadab Constituency

KANU Party

Hon. Beatrice Adagala, MP
Vihiga County

ANC Party

Hon. James G Wamacukuru
Kabete Constituency

Jubilee Party

Hon. Prof. Mohamud Sheikh, MP
Wajir South

Jubilee Party

Hon. Sarah Puleta Korere, MP
Laikipia North Constituency

Jubilee Party

Hon. Capt. Ruweida Mohamed, MP
Lamu County

Jubilee Party

Hon. Kipsengeret Koros, MP
Sigowet-Soin Constituency

Independent Party

Hon. Martin Peters Owino, MP
Ndhiwa Constituency

ODM Party

Hon. Joyce Ekai Emanikor, MP
Turkana County

Jubilee Party

Hon. Said Hirabe, MP
Galole Constituency

Ford Kenya Party

Hon. Tongoyo Gabriel Koshal, MP
Narok West Constituency

CCM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is serviced by the following Secretariat staff:

Head of the Secretariat

Mr. Douglas Katho

Clerk Assistant II

Ms. Christine Odhiambo

Legal Counsel I

Mr. Muyodi Meldaki Emmanuel

Clerk Assistant II

Mr. Eric Kanyi

Fiscal Analyst II

Ms. Fiona Musili

Research Officer II

Mr. Ahmed Yakub

Media Relations Officer

Ms. Catherine Wangui

Serjeant-At-Arms

Mr. Nimrod Ochieng

Audio Officer

PART II

2.0 OVERVIEW OF THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

2.1 ANALYSIS OF THE BILL

6. The Bill seeks to amend the National Hospital Insurance Fund Act, 1998, to establish the National Health Scheme and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver the Universal Health Coverage.

Clause 1 of the Bill sets out the short title of the proposed Act.

Clause 2 of the Bill proposes to amend the long title of the Act in order to include the establishment of the National Health Scheme in the long title of the Act.

Clause 3 of the Bill proposes to amend section 2 of the Act by inserting definitions of new terms and phrases and deleting terms that have become obsolete or no longer appear in the body of the Act.

Clause 4 of the Bill proposes to amend section 5 of the Act to define the role of the Minister in the setting of the criteria for the empanelment and contracting of health care providers for the purposes of this Act and the Board's mandate in facilitating attainment of Universal Health Coverage including communication and stakeholder engagement.

Clauses 5 and 6 of the Bill propose to amend sections 9 and 10 of the Act to provide for the manner of determining the benefits payable to the members of the Board and define the qualifications for appointment as the Chief Executive Officer of the Board.

Clause 7 of the Bill proposes to insert a new section 10A in the Act to provide for the appointment of the Corporation Secretary to comply with the "Mwongozo"-Code of Conduct for State Corporations.

Clause 8 of the Bill proposes to amend section 11 of the Act by removing superfluous words from the section.

Clause 9 of the Bill defines the role of the Corporation Secretary in the handling of the Board's Common Seal.

Clause 10 of the Bill proposes to amend section 15 of the Act to provide for the liability of employers to make a matching contribution to the Fund equal to that which the employee is liable and make it mandatory for Kenyan residents to contribute to the Fund.

Clause 11 of the Bill proposes to insert a new section 15A to make it mandatory for any person who has attained the age of eighteen years and is not a beneficiary to register as a member of the Fund.

Clause 12 of the Bill proposes to amend section 16 of the Act to provide for the liability of employers to pay a matching contribution under section 15 and not deduct such contributions from the salary or other remuneration of the employee.

Clause 13 of the Bill proposes to amend section 18 of the Act to prescribe a penalty for late payment of standard and matching contributions.

Clause 14 of the Bill proposes to amend section 19 of the Act to harmonise penalties in all classes of enterprises.

Clause 15 of the Bill proposes to repeal section 20 of the Act to remove the voluntarily contribution provision since contributions towards the Fund shall be mandatory.

Clause 16 of the Bill proposes to amend section 21 of the Act to eliminate the outdated identification through cards and mandates the Board to prescribe means by which a beneficiary of the Fund may be identified.

Clause 17 of the Bill proposes to amend section 22 of the Act to mandate the Board to pay from the Fund, a benefit to an empanelled and contracted health care provider for an expense incurred by the provider, for the provision of health care services to the number of beneficiaries determined by the Board and to provide for an element of first charge where a beneficiary has a private health insurance cover.

Clause 18 of the Bill proposes to amend section 23 of the Act by deleting obsolete provisions relating to cards and receipts and provide for statement of account for contributors.

Clause 19 of the Bill proposes to repeal section 24 of the Act which provides for stamps that would no longer be used as evidence of contribution.

Clause 20 of the Bill proposes to amend the Act in section 25 to enhance the penalty for those found culpable for the commission of an offence under the Act.

Clause 21 of the Bill proposes to amend section 26 of the Act to remove the reference to stamps as stamps would no longer be used as evidence of contribution.

Clause 22 of the Bill proposes to amend section 30 of the Act to mandate the Board, in consultation with the relevant accreditation bodies, to publish the list of empanelled health care providers for purposes of the Act.

Clause 23 of the Bill proposes to amend section 32 of the Act to provide for inspection of empanelled and contracted health care providers and to enhance the penalty for those found culpable for the commission of an offence under the Act.

Clause 24 of the Bill proposes to amend section 34 of the Act to mandate the Board to invest in the procurement and acquisition of essential medical equipment and supportive infrastructure to empanelled and contracted healthcare providers.

Clause 25 of the Bill proposes to repeal section 41 of the Act as the mandate to prosecute is vested in the Director of Public Prosecutions.

Clause 26 of the Bill proposes to amend section 43 of the Act to make reference to the Work Injury Benefits Act, 2007.

Clause 27 of the Bill proposes to amend section 45 of the Act to enhance the penalty for those found culpable for the commission of an offence under the Act.

Clause 28 proposes to amend the Second Schedule to the Act to change the quorum for meetings from the current nine members to two thirds of its number.

PART III

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

7. Following placement of advertisements in the print media of 10th June, 2021 seeking views on the Bill from members of the public and relevant stakeholders pursuant to Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3).
8. The Committee received memoranda from ten (10) stakeholders namely; The Ministry of Health, the National Hospital Insurance Fund, the Kenya Medical Practitioners Pharmacists and Dentists Union, Dr. Kahura Mundia, the National Gender and Equality Commission, the Central Organization of Trade Unions (COTU), Federation of Kenya Employers, British-American Insurance Company Limited (BRITAM), the Kenya Association of Private Hospitals, and the Kenya Union of Nutritionists and Dietitians.
9. The public participation exercise was held virtually on 30th June, 2021.

3.1 THE MINISTRY OF HEALTH AND THE NATIONAL HOSPITAL INSURANCE FUND

The Ministry of Health and the National Hospital Insurance Fund submitted as follows-

10. The Government of Kenya adopted Universal Health Coverage (UHC) as one of the Big Four priority agenda, with an aspiration that by 2022, all citizens will have access to quality healthcare services that they need without getting into financial difficulties.
11. For the Government to realise and sustain UHC, there is need for the development and implementation of adequate policy, legal and institutional frameworks, including the transformation and repositioning of the National Hospital Insurance Fund (NHIF) as the key driver and strategic purchaser of healthcare services for Kenyan residents. Among the key recommendations proposed to reposition NHIF as a key driver for UHC in Kenya is the amendment of the NHIF Act.
12. The Bill proposes one of the concepts that is practised globally where the private health insurance is the primary payer while the social health insurer becomes the second payer. This will allow the social insurer to cater for the cost of treatment more comprehensively for the vulnerable populations in the society with a limited ability to purchase insurance or even health services.
13. The Bill also proposes that employers match the employees' contribution, and those on the voluntary scheme will retain their current monthly contributions of Kshs. 500 (annual contribution of Kshs. 6,000).

14. This will be made mandatory, and all households with the ability to pay must contribute to the kitty. However, for those unable to pay, the National and County Government will step in and pay. Approximately, 20% of the 5.1 million poor and vulnerable households have been identified across all the 47 Counties.
15. To cater for its members' holistic wellness, the Bill proposes that NHIF be transformed into a National Health Scheme, meaning the focus will be placed on primary care, preventive, promotive and palliative care.
16. Finally, to reduce the turnaround time in service delivery and deter fraudulent activities, the Bill proposes complete digitisation of the NHIF processes.

3.2 KENYA MEDICAL PRACTITIONERS, PHARMACISTS AND DENTISTS UNION & DR. KAHURA MUNDIA, DEPUTY NATIONAL CHAIRPERSON, KMPDU

17. Kenya Medical Practitioners Pharmacists and Dentists Union & Dr. Kahura Mundia, Deputy National Chairperson, KMPDU proposed amendment to the Bill as follows-

CLAUSE 3

18. Clause 3 of the Bill be amended in Section 2 on interpretation and definitions of 'empanelment', 'contracting' and 'healthcare provider'.

Justification

Change clause and provide for all registered healthcare providers to provide services under the act as per the scope of practice provided by a professional regulatory authority.

CLAUSE 4

19. Clause 4 of the Bill be amended in subsection 4(b)- by changing the clause and provide for all registered healthcare providers to provide services under the act as per the scope of practice provided by a professional regulatory authority.
20. The clause be further amended by adding new paragraph (g)- to separate the Board functions.

Justification

- i. To guard against corruption.
- ii. Criteria for registration and licencing are already established under professional regulatory authorities.

CLAUSE 5

21. Clause 5 of the Bill be amended in Section 9- Benefits of Board members to be paid under consolidated Fund.

Justification

To minimise over-exploitation of funds resources in the form of Board and administration expenses.

CLAUSE 9

22. Clause 9 of the Bill be amended by introducing term limit.

Justification

To have a term limit for the Corporation Secretary serving the Fund in the observance of sound principles of governance.

CLAUSE 10

23. Clause 10 of the Bill be amended to provide for regulation of the self-employed persons in Section 15- (Contribution to the Fund)

Justification

To ensure Universal Health Care service provision, all persons who are citizens of Kenya need to qualify for a basic essential care package through the NHIF.

CLAUSE 13

24. Clause 13(b) and 13(c) of the Bill be amended as follows-

13(b)- increment is unjust and punitive.

Justification

The amendment in the Bill provides a standard penalty of twenty-five per cent of the contribution.

25. 13(c)- Maintain penalty for the government as well where it doesn't pay up its standard and matching contribution for unemployed, indigents and vulnerable persons.

CLAUSE 15

26. Clause 15 of the Bill be amended to provide directions for the self-employed instead of doing a repeal of the section.

CLAUSE 16

27. Clause 16 of the Bill be amended to indicate that the only proof of contribution in Section 21(1) should be a payment record and NHIF fund payment statement and not payslips.

CLAUSE 17

28. Clause 17 of the Bill be amended as follows-

- i. The Board should provide benefits within established regulatory frameworks.
- ii. NHIF Fund should take first priority in covering the basic essential care package, and thereafter, persons with private insurance can use their covers.

Justification

To ensure NHIF doesn't employ monopolistic healthcare financings such as abuse of buyer power and enforcement of restrictive trade practices.

CLAUSE 22

29. Clause 22 of the Bill be amended to provide for requirements for empanelling and follow the guidelines of registration and licensing given by professional regulatory bodies.

CLAUSE 24

30. Clause 24 of the Bill be amended to create a specialist scholarship fund.

Justification

- (i) Delete the whole section as it serves to create a loophole for over-exploitation and abuse of NHIF funds
- (ii) Funds can be used to train specialists and healthcare providers through the establishment of the scholarship fund

3.3 FEDERATION OF KENYA EMPLOYERS

31. The Federation of Kenya Employers proposed amendments to the Bill as follows-

CLAUSE 10

32. Clause 10 of the Bill be amended as follows —

10(a)- employers should not be compelled to match the employees' contribution.

10(c)- contributions to the Fund be made by all persons in formal employment.

10(e)- contribution to the Fund should be voluntary.

Justification

i. It will affect the wage bill and destroy the capacity of enterprises to create new jobs

ii. All persons aged 18 years and above to mandatorily contribute is not feasible.

CLAUSE 17

33. Clause 17(e) of the Bill be amended to maintain the current practice in the health insurance industry.

Justification

i. It is the government's responsibility to cater for primary health services.

ii. It will increase the cost of private medical insurance.

CLAUSE 20

34. Clause 20 of the Bill be amended to adopt technology to reduce non-compliance.

Justification

The penalties are inclined toward punishing employers rather than ensuring compliance.

3.4 BRITAM HOLDING PLC

35. British-American Insurance Company Limited (BRITAM) Holding PLC proposed amendments to various sections of the Bill as follows-

CLAUSE 10

36. Clause 10 of the Bill be amended in subsection 10(a) - by introducing an "opt out" option for the matching contribution specifically for employers who are able to sponsor their employees for a private medical cover.

Justification

To avoid a negative impact on the insurance industry through reduced premiums.

CLAUSE 17

37. Clause 17 of the Bill be amended in Subsection 17(e) - NHIF should cater for primary care since it is a statutory mandatory cover.

Justification

To avoid low uptake of private medical insurance.

3.5 KENYA ASSOCIATION OF PRIVATE HOSPITALS

38. The Kenya Association of Private Hospitals proposed amendments to the Bill as follows-

CLAUSE 17

39. They noted as follows in Clause 17 of the Bill -

- i. Clause 17(a)- gives the Board unfettered discretion on the limits of beneficiaries which may be abused by the Board.
- ii. Clause 17(e)- discriminatory on the value of equity.

Justification

The amendment is prejudicial and unjust to the private health insurance

CLAUSE 20

40. Clause 20(e) of the Bill be amended to indicate the process of removal from the register of health care providers

Justification

Article 50 of the Constitution advocates for the right to a fair hearing.

CLAUSE 27

41. Clause 27 of the Bill be amended by reducing the penalty which is unjust and highly punitive

Justification

It may be abused by the Fund.

3.6 CENTRAL ORGANISATION OF TRADE UNIONS, (KENYA)

42. The COTU (K) proposed that the Government withdraws the Bill in its entirety. The Union noted that the Amendments as proposed aim to disband the current formation and structure of the NHIF.
43. The Union further noted that NHIF had been tapped to drive the Universal Health Coverage (UHC) agenda; however, as currently constituted, the Fund would not be able to manage the funds being proposed.
44. The Union proposed that Universal Health Coverage (UHC) be executed through a body managed and constituted outside the current management structure of the NHIF, with a Board that is directly answerable to the National Treasury.

3.7 NATIONAL GENDER AND EQUALITY COMMISSION

45. The Commission noted that the Bill amendments are insufficient to implement a National Health Scheme effectively. If implemented through the proposed amendments, the new law may fail to meet its intended objectives.
46. The Commission recommended that the Government withdraws the Bill and instead initiate repeal of the NHIF Act through consultation with stakeholders followed by tabling of a comprehensive, robust new NHIF Act.

PART IV

4.0 COMMITTEE RECOMMENDATION

47. After considering the National Hospital Insurance Fund (Amendment) Bill, National Assembly Bill No. 21 of 2021, the Committee recommends that the House approves the Bill with amendments as proposed in the schedule.

PART V

5.0 SCHEDULE OF PROPOSED AMENDMENTS

48. The Committees proposed the following amendments to be considered by the House in the Committee stage:

CLAUSE 4

49. **THAT**, clause 4 of the Bill be amended in paragraph (b) by deleting the word “Minister” appearing in the proposed new paragraph (c) and substituting therefor the words “Cabinet Secretary”.

Justification

The amendment seeks to ensure the use of the term “Cabinet Secretary” as provided in the Constitution.

CLAUSE 5

50. **THAT**, clause 5 of the Bill be amended by deleting the words “relevant government agencies” and substituting therefor the words “Salaries and Remuneration Commission”.

Justification

The amendment seeks to ensure the express reference to the Salaries and Remuneration Commission as the body constitutionally mandated to advise the national and county governments on the remuneration and benefits of all other public officers.

CLAUSE 6

51. **THAT**, clause 6 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (4)—

“(5) The Chief Executive Officer shall be an ex officio member of the Board.”

Justification

The amendment seeks to expressly provide that the Chief Executive Officer shall be an ex officio member of the Board, which is necessary for the effective implementation by the Chief Executive Officer of the decisions of the Board.

CLAUSE 10

52. **THAT**, clause 10 of the Bill be amended—

(a) in paragraph (a), by deleting the proposed new subsection (1A) and inserting the following new subsection—

“(1A) Subject to this Act—

(a) the national and county governments shall be liable as a contributor to the Fund in respect of all public officers, state officers and employees working in the county agencies; and

(b) in the case of private employers, an employer whose employee is liable as a contributor of the minimum amount prescribed by the Board, shall be liable as a contributor to the Fund.”

(b) in paragraph (b), by deleting the proposed new paragraph (c) and inserting the following new paragraph—

“(c) in the case of an employer under subsection (1A)(a), a matching contribution, equal to that which their employee is liable to contribute under subsection (1)(c);

(ca) in the case of an employer under subsection (1A)(c), such amount as will be required to top up the employee’s contribution to ensure that the total amount is not less than five hundred shillings;”

Justification

The amendment seeks to ensure that the national and county governments shall be responsible for paying an equal contribution to the NHIF in respect to all public officers and State officers.

The amendment further ensures that private employers shall be obligated to top up their employees’ contribution who pay the minimum contribution to the NHIF, to ensure that the cumulative amount for each employee to the Fund is not less than five hundred shillings.

CLAUSE 14

53. **THAT**, the Bill be amended by deleting clause 14 and inserting the following new clause—

Amendment of 14. Section 19 of the principal Act is amended—

section 19 of No.
9 of 1998.

- (a) in subsection (2), by deleting the words “five times” appearing immediately after the words “penalty equal to” and substituting therefor the words “ten per cent of”; and
- (b) by deleting subsection (3).

Justification

The amendment seeks to reduce the penalty for non-remittance of special contributions by self-employed persons, from five times to ten per cent of the amount of contribution due. This is necessary so as to ensure a realistic payment of penalty, as the non-remittance by the contributor may be occasioned by a lack of funds occasioned by lack of income.

The amendment further seeks to eliminate the double penalty for non-remittance as contained in subsection (3).

CLAUSE 15

54. **THAT**, the Bill be amended by deleting clause 15 and inserting the following new clause—

Amendment of 15. Section 20 of the principal Act is amended by inserting the

section 20 of No.
9 of 1998.

words “by the youth” immediately after the words “voluntary contributions”.

Justification

The amendment seeks to allow for a provision of voluntary contributions to be made by the youth, so as to ensure that any youth who may not have a stable source of income but wishes to make contributions to the Fund is allowed to do so.

CLAUSE 20

55. **THAT**, clause 20 of the Bill be amended—

- (a) in paragraph (a), by deleting the word “ten” and substituting therefore the word “one”;
and
- (b) in paragraph (b), by deleting the word “ten” and substituting therefor the word “one”.

Justification

The amendment seeks to reduce the penalty for the offences of making false statements or impersonation to one million shillings, so as to ensure that there is a difference in the penalty prescribed for individuals and health facilities.

CLAUSE 21

56. **THAT**, clause 21 of the Bill be amended in paragraph (b) by deleting the words “under this Act”.

Justification

The amendment is necessary to retain the words “under this Act”, so as to ensure that the contributions referred to in the section are only the contributions made under the Act.

CLAUSE 23

57. **THAT**, clause 23 of the Bill be amended—

(a) by deleting paragraph (c) and inserting the following new paragraph—

“(c) in subsection (3) by deleting the words “ten thousand shillings” and substituting therefor the words “one million shillings or to imprisonment for a term not exceeding twenty four months” appearing in the closing statement.”

Justification

The amendment seeks to correct a grammatical error caused by the amendment as contained in the Bill.

CLAUSE 24

58. **THAT**, the Bill be amended by deleting clause 24 and inserting the following new clause—

Amendment of **15.** Section 34 of the principal Act is amended in subsection (1) section 34 of No. by deleting paragraph (b).
9 of 1998.

Justification

The amendment seeks to ensure that the funds under the NHIF shall only be used for purposes for which the Fund is established, which is to offer benefits and payments to the contributors in respect of medical expenses incurred in healthcare institutions.

CLAUSE 28

59. **THAT**, clause 28 of the Bill be amended by deleting the words “two-thirds of the” and substituting therefor the word “five”.

Justification

The amendment seeks to ensure that the quorum for a meeting of the Board shall be five members, since the Board shall be composed of nine members.

SIGNED.......... DATE..... 5/2/2021

**THE HON. SABINA CHEGE, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON HEALTH**

MIN. NO.NA/DC.H/2021/144: ADJOURNMENT

There being no further business, the meeting was adjourned at 10.16 a.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....5/2/2021.....

MINUTES OF THE FORTY-THIRD (43RD) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 5TH AUGUST, 2021 VIA ZOOM AT 9.00 A.M.

PRESENT

1. **The Hon. Sabina Chege, MP** - **Chairperson**
2. **The Hon. Joshua Kutuny, MP** - **Vice-Chairperson**
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr James Kipkosgei Murgor, MP
5. The Hon. Muriuki Njagagua, MP
6. The Hon. Martin Peters Owino, MP
7. The Hon. (Capt) Ruweida Mohammed, MP
8. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. The Hon. Dr Eseli Simiyu, MP
2. The Hon. Dr Mohamed Dahir Duale, MP
3. The Hon. Prof Mohamud Sheikh Mohamed, MP
4. The Hon. Joyce Akai Emanikor, MP
5. The Hon. Dr Gideon Ochanda, MP
6. The Hon. Kipsengeret Koros, MP
7. The Hon. Alfred Agoi Masadia, MP
8. The Hon James Githua Kamau Wamacukuru, MP
9. The Hon. Tongoyo Gabriel Koshal, MP
10. The Hon. Said Hiribae, MP
11. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Douglas Katho - Clerk Assistant II
2. Christine Odhiambo - Legal Counsel I
3. Muyodi Emmanuel - Clerk Assistant II
4. Nimrod Ochieng - Audio Officer

MIN. NO.NA/DC.H/2021/142: PRELIMINARIES

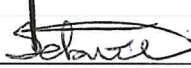




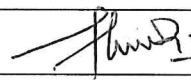
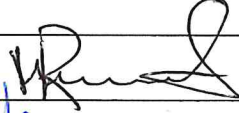

The Chairperson called the meeting to order at 9.19 a.m. and said a prayer.

MIN.NO.NA/DC.H/2021/143: THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)

The Committee adopted the report on the National Hospital Fund (Amendment) Bill, 2021 (National Assembly Bill No. 21 of 2021) after being proposed by the Hon. (Capt) Ruweida Mohammed, MP and seconded by the Hon. Beatrice Adagala, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

**THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON HEALTH
ATTENDANCE SCHEDULE**

**ADOPTION SCHEDULE FOR THE CONSIDERATION OF THE REPORT ON THE NATIONAL HOSPITAL
INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021**

	NAME	SIGNATURE
1.	Hon. Sabina Chege, MP – Chairperson	
2.	Hon. Joshua Kutuny, MP – Vice-Chairperson	Verbal
3.	Hon. Dr. Eseli Simiyu, MP	
4.	Hon. Dr. James Nyikal, MP	Verbal
5.	Hon. Dr. Mohamed Dahir Duale, MP	
6.	Hon. Dr. James Kipkosgei Murgor, MP	
7.	Hon. Alfred Agoi Masadia, MP	
8.	Hon. Muriuki Njagagua, MP	Verbal
9.	Hon. Joyce Akai Emanikor, MP	
10.	Hon. Prof. Mohamud Sheikh Mohamed, MP	
11.	Hon. Martin Peters Owino, MP	
12.	Hon. Kipsengeret Koros, MP	
13.	Hon. Tongoyo Gabriel Koshal, MP	
14.	Hon. Sarah Paulata Korere, MP	
15.	Hon. Dr. Gideon Ochanda, MP	
16.	Hon. Beatrice Adagala, MP	Verbal
17.	Hon. Said Hiribae, MP	
18.	Hon. (Capt.) Ruweida Mohammed, MP	
19.	Hon. James Githua Kamau Wamacukuru, MP	

MINUTES OF THE FORTY-FIRST (41ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 3RD AUGUST, 2021 VIA ZOOM AT 10.00 A.M.

PRESENT

1. **The Hon. Sabina Chege, MP** - **Chairperson**
2. **The Hon. Joshua Kutuny, MP** - **Vice-Chairperson**
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Dr Mohamed Dahir Duale, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Muriuki Njagagua, MP
7. The Hon. Joyce Akai Emanikor, MP
8. The Hon. Martin Peters Owino, MP
9. The Hon. Dr Gideon Ochanda, MP
10. The Hon. Kipsengeret Koros, MP
11. The Hon. (Capt) Ruweida Mohammed, MP
12. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. The Hon. Dr James Nyikal, MP
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon James Githua Kamau Wamacukuru, MP
5. The Hon. Tongoyo Gabriel Koshal, MP
6. The Hon. Said Hiribae, MP
7. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|--------------------|
| 1. Douglas Katho | - | Clerk Assistant II |
| 2. Christine Odhiambo | - | Legal Counsel I |
| 3. Muyodi Emmanuel | - | Clerk Assistant II |
| 4. Nimrod Ochieng | - | Audio Officer |

MIN. NO.NA/DC.H/2021/136: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.15 a.m. and said a prayer.

MIN.NO.NA/DC.H/2021/137: ADOPTION OF THE REPORTS ON BILLS

The Committee considered the proposed amendments and adopted the reports as follows:

1. THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)

The agenda was deferred to Wednesday 4th August, 2021 at 9.00 p.m.

2. THE COMMUNITY HEALTH WORKERS BILL, 2020, (NATIONAL ASSEMBLY BILL NO. 30 OF 2020)

The Committee adopted the report on the Community Health Workers Bill, 2020 (National Assembly Bill No. 30 of 2020) after being proposed by the Hon. Beatrice Adagala, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

3. THE RADIOGRAPHERS BILL 2019, (NATIONAL ASSEMBLY BILL NO. 47 OF 2019)

The Committee adopted the report on the Radiographers Bill, 2019 (National Assembly Bill No. 47 of 2019) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

4. THE HEALTH (AMENDMENT) BILL, 2021, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

The Committee adopted the report on the Health (Amendment) Bill, 2021 (National Assembly Bill No. 14 of 2021) after being proposed by the Hon. (Capt) Ruweida Mohammed, MP and seconded by the Hon. Kipsengeret Koros, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

5. THE PHARMACY AND POISONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)

The Committee adopted the report on the Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

MIN. NO.NA/DC.H/2021/138: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.44 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....4/8/2024.....

MINUTES OF THE FORTIETH (40TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 27TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA IN MEDUSA 2 CONFERENCE ROOM AT 9.30 A.M

PRESENT

1. **The Hon. Sabina Chege, MP** - Chairperson
2. **The Hon. Joshua Kutuny, MP** – Vice-Chairperson
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr James Kipkosgei Murgor, MP
5. The Hon. Dr Mohamed Dahir Duale, MP
6. The Hon. Prof Mohamud Sheikh Mohamed, MP
7. The Hon. Muriuki Njagagua, MP
8. The Hon. Dr Gideon Ochanda, MP
9. The Hon. Martin Peters Owino, MP
10. The Hon. (Capt) Ruweida Mohammed, MP
11. The Hon. Kipsengeret Koros, MP
12. The Hon. Beatrice Adagala, MP
13. The Hon James Githua Kamau Wamacukuru, MP

ABSENT WITH APOLOGY

1. The Hon. Dr Eseli Simiyu, MP
2. The Hon. Joyce Akai Emanikor, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon. Tongoyo Gabriel Koshal, MP
5. The Hon. Said Hiribae, MP
6. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/133: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9.20 a.m. and said a prayer. Thereafter he welcomed the Committee Members.

MIN.NO.NA/DC.H/2021/134: CLAUSE BY CLAUSE CONSIDERATION OF THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

After lengthy deliberations, the Committees proposed amendments to the National Hospital Insurance Fund (Amendment) Bill, 2021, National Assembly Bill No. 21 of 2021 as follows:

CLAUSE 4

THAT, clause 4 of the Bill be amended in paragraph (b) by deleting the word “Minister” appearing in the proposed new paragraph (c) and substituting therefor the words “Cabinet Secretary”.

Justification

The amendment seeks to ensure the use of the term “Cabinet Secretary” as provided in the Constitution.

CLAUSE 5

THAT, clause 5 of the Bill be amended by deleting the words “relevant government agencies” and substituting therefor the words “Salaries and Remuneration Commission”.

Justification

The amendment seeks to ensure the express reference to the Salaries and Remuneration Commission as the body constitutionally mandated to advise the national and county governments on the remuneration and benefits of all other public officers.

CLAUSE 6

THAT, clause 6 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (4)—

“(5) The Chief Executive Officer shall be an ex officio member of the Board.”

Justification

The amendment seeks to expressly provide that the Chief Executive Officer shall be an ex officio member of the Board, which is necessary for the effective implementation of the decisions of the Board by the Chief Executive Officer.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in paragraph (a), by deleting the proposed new subsection (1A); and
- (b) in paragraph (b), by deleting the proposed new paragraph (c).

Justification

The amendment seeks to remove the mandatory requirement of obligating employers' compulsory contributions to the NHIF in respect of each of their employees.

The obligation on employers to make matching contributions to the NHIF will affect the wage bill and destroy the capacity of enterprises to create new jobs, as well as lead to the decline by employers in offering private health insurance for their employees.

CLAUSE 12

THAT, clause 12 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) by deleting paragraph (b);
- (c) in paragraph (c), by deleting sub-paragraph (i); and
- (d) in paragraph (f), by deleting sub-paragraph (i).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 13

THAT, clause 13 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b), by deleting the words “or matching” wherever they appear in the proposed new subsection (1); and
- (c) by deleting paragraph (d).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 14

THAT, the Bill be amended by deleting clause 14 and inserting the following new clause—

Amendment of 14. Section 19 of the principal Act is amended—
section 19 of

- (a) in subsection (2), by deleting the words “five times”

and substituting therefor the words “ten per cent of”; and
(b) by deleting subsection (3).

Justification

The amendment seeks to reduce the penalty for non-remittance of special contributions by self-employed persons, from five times to ten per cent of the amount of contribution due. This is necessary so as to ensure a realistic payment of penalty, as the non-remittance by the contributor may be occasioned by a lack of funds occasioned by lack of income.

The amendment further seeks to eliminate the double penalty for non-remittance as contained in subsection (3).

CLAUSE 15

THAT, the Bill be amended by deleting clause 15 and inserting the following new clause—

Amendment of 15. Section 20 of the principal Act is amended by inserting the section 20 of words “by the youth” immediately after the words “voluntary No. 9 of 1998. contributions”.

Justification

The amendment seeks to allow for a provision of voluntary contributions to be made by the youth, so as to ensure that any youth who may not have a stable source of income but wishes to make contributions to the Fund is allowed to do so.

CLAUSE 16

THAT, clause 16 of the Bill be amended—

- (a) in the proposed new subsection (2), by deleting the words “or matching”;
- (b) in the proposed new subsection (3), by deleting the words “or matching” appearing in paragraph (a).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

- (a) in paragraph (a), by deleting the word “ten” and substituting therefore the word “one”;
and

Justification

The amendment seeks to reduce the penalty for the offences of making false statements or impersonation to one million shillings, so as to ensure that there is a difference in the penalty prescribed for individuals and health facilities.

CLAUSE 21

THAT, clause 21 of the Bill be amended in paragraph (b) by deleting the words “under this Act”.

Justification

The amendment is necessary to retain the words “under this Act”, so as to ensure that the contributions referred to in the section are only the contributions made under the Act.

CLAUSE 23

THAT, clause 23 of the Bill be amended—

(a) in paragraph (b), by deleting the words “and matching” appearing in sub-paragraph (i); and

(b) by deleting paragraph (c) and inserting the following new paragraph—

“(c) in subsection (3) by deleting the words “ten thousand shillings” and substituting therefor the words “one million shillings or to imprisonment for a term not exceeding twenty four months” appearing in the closing statement.”

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

The amendment further seeks to correct a grammatical error caused by the amendment as contained in the Bill.

CLAUSE 24

THAT, the Bill be amended by deleting clause 24 and inserting the following new clause—

Amendment of **15**. Section 34 of the principal Act is amended in subsection (1) section 34 of by deleting paragraph (b).

Justification

The amendment seeks to ensure that the funds under the NHIF shall only be used for purposes for which the Fund is established, which is to offer benefits and payments to the contributors in respect of medical expenses incurred in healthcare institutions.

CLAUSE 28

THAT, clause 28 of the Bill be amended by deleting the words “two-thirds of the” and substituting therefor the word “five”.

Justification

The amendment seeks to ensure that the quorum for a meeting of the Board shall be five members, since the Board shall be composed of nine members.

MIN. NO.NA/DC.H/2021/135: ADJOURNMENT

There being no further business, the meeting was adjourned at 10.04 a.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date..........

MINUTES OF THE THIRTY-FIFTH (35TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON MONDAY 26TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA IN MEDUSA 2 CONFERENCE ROOM AT 9.30 A.M

PRESENT

1. **The Hon. Sabina Chege, MP** - Chairperson
2. **The Hon. Joshua Kutuny, MP** – Vice-Chairperson
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr James Kipkosgei Murgor, MP
5. The Hon. Dr Mohamed Dahir Duale, MP
6. The Hon. Prof Mohamud Sheikh Mohamed, MP
7. The Hon. Muriuki Njagagua, MP
8. The Hon. Dr Gideon Ochanda, MP
9. The Hon. Martin Peters Owino, MP
10. The Hon. (Capt) Ruweida Mohammed, MP
11. The Hon. Kipsengeret Koros, MP
12. The Hon. Beatrice Adagala, MP
13. The Hon James Githua Kamau Wamacukuru, MP

ABSENT WITH APOLOGY

1. The Hon. Dr Eseli Simiyu, MP
2. The Hon. Joyce Akai Emanikor, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon. Tongoyo Gabriel Koshal, MP
5. The Hon. Said Hiribae, MP
6. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/118: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9.25 a.m. and said a prayer. Thereafter he welcomed the Committee Members.

MIN.NO.NA/DC.H/2021/119: CLAUSE BY CLAUSE CONSIDERATION OF THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

After lengthy deliberations, the Committees proposed amendments to the National Hospital Insurance Fund (Amendment) Bill, 2021, National Assembly Bill No. 21 of 2021 as follows:

CLAUSE 4

THAT, clause 4 of the Bill be amended in paragraph (b) by deleting the word “Minister” appearing in the proposed new paragraph (c) and substituting therefor the words “Cabinet Secretary”.

Justification

The amendment seeks to ensure the use of the term “Cabinet Secretary” as provided in the Constitution.

CLAUSE 5

THAT, clause 5 of the Bill be amended by deleting the words “relevant government agencies” and substituting therefor the words “Salaries and Remuneration Commission”.

Justification

The amendment seeks to ensure the express reference to the Salaries and Remuneration Commission as the body constitutionally mandated to advise the national and county governments on the remuneration and benefits of all other public officers.

CLAUSE 6

THAT, clause 6 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (4)—

“(5) The Chief Executive Officer shall be an ex officio member of the Board.”

Justification

The amendment seeks to expressly provide that the Chief Executive Officer shall be an ex officio member of the Board, which is necessary for the effective implementation of the decisions of the Board by the Chief Executive Officer.

CLAUSE 10

THAT, clause 10 of the Bill be amended—

- (a) in paragraph (a), by deleting the proposed new subsection (1A); and
- (b) in paragraph (b), by deleting the proposed new paragraph (c).

Justification

The amendment seeks to remove the mandatory requirement of obligating employers' compulsory contributions to the NHIF in respect of each of their employees.

The obligation on employers to make matching contributions to the NHIF will affect the wage bill and destroy the capacity of enterprises to create new jobs, as well as lead to the decline by employers in offering private health insurance for their employees.

CLAUSE 12

THAT, clause 12 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) by deleting paragraph (b);
- (c) in paragraph (c), by deleting sub-paragraph (i); and
- (d) in paragraph (f), by deleting sub-paragraph (i).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 13

THAT, clause 13 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) in paragraph (b), by deleting the words “or matching” wherever they appear in the proposed new subsection (1); and
- (c) by deleting paragraph (d).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 14

THAT, the Bill be amended by deleting clause 14 and inserting the following new clause—

Amendment of 14. Section 19 of the principal Act is amended—
section 19 of

- (a) in subsection (2), by deleting the words “five times”

and substituting therefor the words “ten per cent of”; and
(b) by deleting subsection (3).

Justification

The amendment seeks to reduce the penalty for non-remittance of special contributions by self-employed persons, from five times to ten per cent of the amount of contribution due. This is necessary so as to ensure a realistic payment of penalty, as the non-remittance by the contributor may be occasioned by a lack of funds occasioned by lack of income.

The amendment further seeks to eliminate the double penalty for non-remittance as contained in subsection (3).

CLAUSE 15

THAT, the Bill be amended by deleting clause 15 and inserting the following new clause—

Amendment of 15. Section 20 of the principal Act is amended by inserting the section 20 of words “by the youth” immediately after the words “voluntary No. 9 of 1998. contributions”.

Justification

The amendment seeks to allow for a provision of voluntary contributions to be made by the youth, so as to ensure that any youth who may not have a stable source of income but wishes to make contributions to the Fund is allowed to do so.

CLAUSE 16

THAT, clause 16 of the Bill be amended—

- (a) in the proposed new subsection (2), by deleting the words “or matching”;
- (b) in the proposed new subsection (3), by deleting the words “or matching” appearing in paragraph (a).

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

CLAUSE 20

THAT, clause 20 of the Bill be amended—

- (a) in paragraph (a), by deleting the word “ten” and substituting therefore the word “one”;
and

Justification

The amendment seeks to reduce the penalty for the offences of making false statements or impersonation to one million shillings, so as to ensure that there is a difference in the penalty prescribed for individuals and health facilities.

CLAUSE 21

THAT, clause 21 of the Bill be amended in paragraph (b) by deleting the words “under this Act”.

Justification

The amendment is necessary to retain the words “under this Act”, so as to ensure that the contributions referred to in the section are only the contributions made under the Act.

CLAUSE 23

THAT, clause 23 of the Bill be amended—

(a) in paragraph (b), by deleting the words “and matching” appearing in sub-paragraph (i); and

(b) by deleting paragraph (c) and inserting the following new paragraph—

“(c) in subsection (3) by deleting the words “ten thousand shillings” and substituting therefor the words “one million shillings or to imprisonment for a term not exceeding twenty four months” appearing in the closing statement.”

Justification

The amendment seeks to remove the provisions relating to the requirement of employers to make matching contributions to the NHIF in respect to all their employees.

The amendment further seeks to correct a grammatical error caused by the amendment as contained in the Bill.

CLAUSE 24

THAT, the Bill be amended by deleting clause 24 and inserting the following new clause—

Amendment of 15. Section 34 of the principal Act is amended in subsection (1) section 34 of by deleting paragraph (b).

Justification

The amendment seeks to ensure that the funds under the NHIF shall only be used for purposes for which the Fund is established, which is to offer benefits and payments to the contributors in respect of medical expenses incurred in healthcare institutions.

CLAUSE 28

THAT, clause 28 of the Bill be amended by deleting the words “two-thirds of the” and substituting therefor the word “five”.

Justification

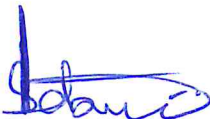
The amendment seeks to ensure that the quorum for a meeting of the Board shall be five members, since the Board shall be composed of nine members.

MIN. NO.NA/DC.H/2021/120: ADJOURNMENT/DATE OF NEXT MEETING

There being no further business, the meeting was adjourned at 1.04 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....4/2/2021.....

MINUTES OF THE TWENTY-SEVENTH (27TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON WEDNESDAY 30TH JUNE, 2021 VIA ZOOM AT 9.00 A.M.

PRESENT

1. **The Hon. Sabina Chege, MP** - Chairperson
2. **The Hon. Joshua Kutuny, MP** – Vice-Chairperson
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr James Kipkosgei Murgor, MP
5. The Hon. Muriuki Njagagua, MP
6. The Hon. Martin Peters Owino, MP
7. The Hon. Joyce Akai Emanikor, MP
8. The Hon. (Capt) Ruweida Mohammed, MP
9. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. The Hon. Dr Eseli Simiyu, MP
2. The Hon. Dr Mohamed Dahir Duale, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon. Prof Mohamud Sheikh Mohamed, MP
5. The Hon. Dr Gideon Ochanda, MP
6. The Hon. Kipsengeret Koros, MP
7. The Hon. Tongoyo Gabriel Koshal, MP
8. The Hon James Githua Kamau Wamacukuru, MP
9. The Hon. Said Hiribae, MP
10. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Christine Odhiambo | – | Legal Counsel I |
| 3. Muyodi Emmanuel | – | Clerk Assistant II |
| 4. Nimrod Ochieng | – | Audio Officer |

STAKEHOLDERS

1. The Ministry of Health
2. National Hospital Insurance Fund
3. Kenya Medical Practitioners Pharmacists and Dentists Union,
4. Dr. Kahura Mundia
5. National Gender and Equality Commission,
6. Central Organization of Trade Unions(COTU)
7. Federation of Kenya Employers
8. BRITAM Holding PLC
9. Kenya Association of Private Hospitals
10. Kenya Union of Nutritionists and Dietitians

MIN. NO.NA/DC.H/2021/94: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9.21 a.m. and said a prayer. Thereafter he welcomed the Committee Members and the stakeholders.

MIN.NO.NA/DC.H/2021/95: STAKEHOLDERS ENGAGEMENT ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

The following stakeholders appeared before the Committee and presented their views on the proposed amendments (*details of their submissions and import of each proposed amendment are contained in Part III of the report on the National Hospital Insurance Fund (Amendment) Bill, National Assembly Bill No. 21 of 2021*)


- i. The Ministry of Health
- ii. National Hospital Insurance Fund
- iii. Kenya Medical Practitioners Pharmacists and Dentists Union,
- iv. Dr. Kahura Mundia
- v. National Gender and Equality Commission,
- vi. Central Organization of Trade Unions(COTU)
- vii. Federation of Kenya Employers
- viii. BRITAM Holding PLC
- ix. Kenya Association of Private Hospitals
- x. Kenya Union of Nutritionists and Dietitians

MIN. NO.NA/DC.H/2021/96: ADJOURNMENT

There being no further business, the meeting was adjourned at 1.07 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.  Date. 4/8/2021

MINUTES OF THE TWENTY-SIXTH (26TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 29TH JUNE, 2021 VIA ZOOM AT 9.00 A.M.

PRESENT

1. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
2. The Hon. Dr James Nyikal, MP
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Muriuki Njagagua, MP
5. The Hon. Martin Peters Owino, MP
6. The Hon. Joyce Akai Emanikor, MP
7. The Hon. (Capt) Ruweida Mohammed, MP
8. The Hon. Beatrice Adagala, MP
9. The Hon. Said Hiribae, MP
10. The Hon. Sarah Paulata Korere, MP

ABSENT WITH APOLOGY

1. **The Hon. Sabina Chege, MP - Chairperson**
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Dr Mohamed Dahir Duale, MP
4. The Hon. Alfred Agoi Masadia, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Dr Gideon Ochanda, MP
7. The Hon. Kipsengeret Koros, MP
8. The Hon. Tongoyo Gabriel Koshal, MP
9. The Hon James Githua Kamau Wamacukuru, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | - | Senior Clerk Assistant |
| 2. Christine Odhiambo | - | Legal Counsel I |
| 3. Muyodi Emmanuel | - | Clerk Assistant II |
| 4. Nimrod Ochieng | - | Audio Officer |

STAKEHOLDERS

MINISTRY OF HEALTH

Ms. Susan Mochache, CBS - Principal Secretary

THE NATIONAL HOSPITAL INSURANCE FUND

Dr Peter Kamunyo Gathege - Chief Executive Officer

MIN. NO.NA/DC.H/2021/91: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9.15 a.m. and said a prayer. Thereafter he welcomed the Committee Members and the stakeholders.

MIN.NO.NA/DC.H/2021/92: STAKEHOLDERS ENGAGEMENT ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

The Ministry of Health and the National Hospital Insurance Fund presented as follows on the National Hospital Insurance Fund (Amendment) Bill, National Assembly Bill No. 21 of 2021:

The Government of Kenya adopted Universal Health Coverage (UHC) as one of the Big Four priority agenda, with an aspiration that by 2022, all citizens will have access to quality healthcare services that they need without getting into financial difficulties.

For the Government to realise and sustain UHC there is need for the development and implementation of adequate policy, legal and institutional frameworks, include the transformation and repositioning of the National Hospital Insurance Fund (NHIF) as the

key driver and strategic purchaser of healthcare services for Kenyan residents. Among the key recommendations proposed to reposition NHIF as a key driver for UHC in Kenya is the amendment of the NHIF Act.

The Bill proposes one of the concepts that is practised the world over where the private health insurance is the primary payer while the social health insurer becomes the second payer. This will allow the social insurer to cater for the cost of treatment more comprehensively for the vulnerable populations in the society with a limited ability to purchase insurance or even health services.

The Bill also proposes that employers match the employees' contribution, and those on the voluntary scheme will retain their current monthly contributions of Kshs. 500 (annual contribution of Kshs. 6,000).

This will be made mandatory, and all households with the ability to pay must contribute to the kitty. However, for those unable to pay, the National and County Government will step in to pay. Approximately 20% of the 5.1 million poor and vulnerable households have been identified across all 47 Counties.

To cater to its member's holistic wellness, the Bill proposes that NHIF be transformed into a National Health Scheme, meaning the focus will be placed on primary care, preventive, promotive and palliative care.


Finally, to reduce the turnaround time in service delivery, deter fraudulent activities, the Bill has allowed for the complete digitisation of the NHIF processes.

MIN. NO.NA/DC.H/2021/93: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.48 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.  Date. 4/8/2021

MINUTES OF THE TWENTY-FIFTH (25TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 22ND JUNE, 2021 VIA ZOOM AT 9.00 AM.

PRESENT

1. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
2. The Hon. Dr James Nyikal, MP
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Dr Mohamed Dahir Duale, MP
5. The Hon. Muriuki Njagagua, MP
6. The Hon. Joyce Akai Emanikor, MP
7. The Hon. Martin Peters Owino, MP
8. The Hon. Prof Mohamud Sheikh Mohamed, MP
9. The Hon. Kipsengeret Koros, MP
10. The Hon. (Capt) Ruweida Mohammed, MP
11. The Hon. Beatrice Adagala, MP
12. The Hon. Said Hiribae, MP

ABSENT WITH APOLOGY

1. **The Hon. Sabina Chege, MP - Chairperson**
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon. Dr Gideon Ochanda, MP
5. The Hon. Tongoyo Gabriel Koshal, MP
6. The Hon James Githua Kamau Wamacukuru, MP
7. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Christine Odhiambo | – | Legal Counsel I |
| 3. Muyodi Emmanuel | – | Clerk Assistant II |
| 4. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/88: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 9.17 a.m.

MIN.NO.NA/DC.H/2021/89: BRIEFING ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 21 OF 2021

The meeting was informed that the Committee had received many memoranda from critical organizations and individuals.

After that, the Legal Counsel took the Committee through the Bill and explained the import of each proposed amendment. The Committee resolved that it would undertake public participation exercise on the Bill on 30th June, 2021.

MIN. NO.NA/DC.H/2021/90: ADJOURNMENT

There being no further business, the meeting was adjourned at 11.13 a.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign  Date 4/8/2021



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - FIFTH SESSION

**In the Matter of Article 118(1)(b) of the Constitution
and
In the Matter of Consideration by the National Assembly of
The National Hospital Insurance Fund (Amendment) Bill (National
Assembly No 21 of 2021)**

SUBMISSION OF MEMORANDA

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on **The National Hospital Insurance Fund (Amendment) Bill (National Assembly No 21 of 2021)**

The National Hospital Insurance Fund (Amendment) Bill (National Assembly No 21 of 2021) seeks to amend the National Hospital Insurance Fund Act, 1998 to establish National Health Scheme and to enhance the mandate of the National Hospital Insurance Fund to facilitate and deliver Universal Health Coverage.

The Bill underwent the First Reading pursuant to Standing Order 127(3) on 8th June, 2021 and was committed to the Departmental Committee on Health for consideration.

Copies of the Bill are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be addressed to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to clerk@parliament.go.ke; to be received on or before **Thursday 17th June, 2021 at 5.00pm**.

MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY

10th June, 2021

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