The National Hospital Insurance Fund (Amendment) Act, 2022 .................................. 1
THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) ACT
No. 1 of 2022

Date of Assent: 10th January, 2022

Date of Commencement: 28th January, 2022

AN ACT of Parliament to amend the National Hospital Insurance Fund Act, 1998

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Hospital Insurance Fund (Amendment) Act, 2021.

2. The National Hospital Insurance Fund Act, in this Act referred to as the “principal Act” is amended by deleting the long title and inserting the following new long title—

"An Act of Parliament to provide for the establishment of the National Health Insurance Fund; to establish the National Health Insurance Fund Management Board; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; and for connected purposes"

3. The principal Act is amended in the title by deleting the word “Hospital” and substituting therefor the word “Health”.

4. Section 1 of the principal Act is amended in section 1 by deleting the word “Hospital” and substituting therefor the word “Health”.

5. Section 2 of the principal Act is amended—

(a) in the definition of “Board” by deleting the word “Hospital” and substituting therefor the word “Health”;

(b) by deleting the definition of “card”;

(c) by deleting the definition of “child” and substituting therefor the following new definition—

“child” means a child of a contributor including a posthumous child, a stepchild, an
adopted child and any child to whom the contributor stands in loco parentis, and who has not attained the age of eighteen years”;  
(d) by deleting the definition of the term “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;”

(e) in the definition of “Fund” by deleting the word “Hospital” and substituting therefor the word “Health”;  
(f) by deleting the definition of “hospital”;  
(g) by deleting the definition of “Minister”;  
(h) by deleting the definition of “register”;  
(i) by deleting the definition of “stamp”;  
(j) by deleting the definition of “inspector” and substituting therefor the following new definition—

“inspector” means a person appointed to carry out an inspection under section 32”;  
(k) by inserting the following new definitions in proper alphabetical sequence—

“accreditation” means the formal recognition of a health care provider by the Board”;

“beneficiary” means a person who—

(a) has not attained the age of twenty-one years, has no income of his own and is living with the contributor;  
(b) has not attained the age of twenty-five years, is undergoing a full-time course of education at a university, college, school or other educational establishment or serving under articles or an indenture with a view to qualifying in a trade or
profession and is not in receipt of any income other than a scholarship, bursary or other similar grant or award;

(c) is a person with disability and is wholly dependent on and living with the contributor;

(d) is a spouse; or

(e) is a contributor;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to health;

"contracting" means the entering into a formal agreement with an empaneled health care provider for purposes of provision of services;

"empanelment" means enrolment of a health care provider into the list of health care service providers published in the Gazette;

"health care provider" means the whole or part of a public or private institution, building or place, duly registered healthcare professional, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative, promotive or other health service;

"indigent" means a person who is poor and needy to the extent that the person cannot meet their basic necessities of life;

"risk spreading" means the transfer, sharing or distribution of the risk insured as between one or more insurance companies or other providers with a view to reducing the financial cost in the eventual happening of the insured event hereby referred as a loss for special, enhanced or negotiated scheme;

"vulnerable person" means a person who is in need of special care, support or protection, including the orphaned and vulnerable children, widows or widowers, person with disability, elderly persons or indigent due to a risk of abuse or neglect and who has been identified as such by the relevant government body;"
6. Section 3 of the principal Act is amended—

(a) in subsection (1), by deleting the word “Hospital” and substituting therefor the word “Health”; and

(b) in subsection (2), by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) into the Fund—

(i) contributions under section 15;

(ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons;

(iii) gifts, grants or donations;

(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; and

(v) contributions from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so.”

7. Section 4 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections—

“(1) The management of the Fund shall vest in a Board which shall consist of—
(a) a Chairperson appointed by the President by virtue of his or her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing;

(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing;

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

(e) one person nominated by the Federation of Kenya Employers;

(f) one person nominated by the Central Organization of Trade Unions;

(g) two persons, not being Governors, nominated by the Council of County Governors;

(h) two persons, not being public officers, appointed by the Cabinet Secretary; and

(i) the Chief Executive Officer, who shall be an ex-officio member of the Board.

(1A) The persons nominated or appointed under paragraphs (e), (f), (g) and (h) shall have knowledge and experience in matters relating to finance, insurance, information, communication and technology, law, public health, business management, audit, economics or any other relevant field.

(1B) The nominating body under paragraph (f) shall afford equal opportunity to men and women,
youth, persons with disabilities and minorities and marginalized groups and ensure regional balance.

(1C) The Cabinet Secretary responsible for matters relating to health shall publish the names of the persons nominated under paragraphs (d), (e), (f) and (g) in the Gazette.”

8. Section 5(1) of the principal Act is amended—

(a) in paragraph (b) by deleting the words “declared hospitals” and substituting therefor the words “empaneled health care providers”;

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

“(c) in consultation with the respective regulatory bodies specified under section 60 of the Health Act, to set the criteria for the empanelment and contracting of health care providers for the purposes of this Act”;

(c) by deleting paragraph (g) and substituting therefor the following new paragraphs—

“(g) to facilitate attainment of Universal Health Coverage with respect to health insurance;

(h) to administer employee benefits as provided under this Act on behalf of employers in respect of their employees; and

(i) to perform such other functions as are conferred on it by this Act or any other written law”;

(d) in paragraph (f) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”; and

(e) 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.”

9. Section 6 of the principal Act is amended—

(a) in paragraph (a) by deleting the word “Minister” appearing in the proviso and substituting therefor the words “Cabinet Secretary”; and
(b) by inserting the following new paragraph immediately after paragraph (a)—

"(aa) to determine the contributions to be made by contributors to the Fund;"

10. The principal Act is amended by deleting section 9 and substituting therefor the following new section—

9. The chairman and members of the Board, other than the chief executive officer, shall be paid out of the moneys of the Fund such sitting allowances or other remuneration as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

11. The principal Act is amended by deleting section 10 and substituting therefor the following new section—

10. (1) There shall be a chief executive officer of the Fund who shall be appointed by the Board, through a competitive process, on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine.

(2) A person is qualified for appointment as a chief executive officer if the person—

(a) has at least a Master's degree from a university recognized in Kenya;

(b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and

(c) meets the requirements of Chapter Six of the Constitution.

(3) The chief executive officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board.

(4) The chief executive officer shall serve for a term of three years and shall be eligible for
re-appointment for a further and final term of three years.

(5) The chief executive officer shall be an ex officio member of the Board.

12. The principal Act is amended by inserting the following new section immediately after section 10—

10A. (1) The Board shall competitively recruit a person qualified in terms of the law governing the practice of certified secretaries in Kenya, to serve as the Corporation Secretary of the Board.

(2) A person is qualified for appointment as a corporation secretary under subsection (1) if the person 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.

(3) The Corporation Secretary shall be the Secretary to the Board and shall—

(a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;

(b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;

(c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;

(d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and

(e) perform such other duties as the Board may direct.

13. Section 11 of the principal Act is amended by deleting the words “officers, inspectors and servants” and substituting therefor the word “staff”.

Amendment of section 11 of No. 9 of 1998.
14. The principal Act is amended by deleting section 12 and substituting therefor the following new section—

12. (1) There shall be a common seal of the Board which shall be kept in the custody of the Corporation Secretary and shall not be used except on the direction of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signatures of the Chairperson and the Chief Executive Officer and any document required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer.

(3) The Board shall, in the absence of either the Chairperson or the Chief Executive Officer, in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.

15. The principal Act is amended by inserting the following new section immediately before section 15 under Part III—

14A. (1) A person who has attained the age of eighteen years and is not a beneficiary shall register as a member of the Fund.

(2) The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying out of subsection (1).

16. Section 15 of the principal Act is amended—

(a) by inserting the following new subsections immediately after subsection (1)—

"(1A) Subject to this Act —
(a) the national government shall be liable as a contributor to the Fund in respect of all public officers, state officers and employees working in the national government and national government entities;

(b) each county government shall be liable as a contributor to the Fund in respect of all public officers, state officers and employees working in the county government and county government entities; and

(c) any other employer shall be liable as a contributor to the Fund in respect of its employees, subject to paragraph (2)(e).

(1B) Subject to this Act, the national government shall be liable as a contributor to the Fund on behalf of the indigent and vulnerable persons identified as such by the relevant government body.”;

(b) in subsection (1), by deleting the word “Minister” appearing in paragraph (c) and substituting therefor the word “Cabinet Secretary”;

(c) in subsection (2), by—

(i) deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) for persons whose income is derived from self-employment—

(i) in the case of a contributor who is a sole beneficiary; and

(ii) in the case of a contributor who is not a sole beneficiary,

a special contribution at such respective rates as may be determined by the Board;”

(ii) inserting the following new paragraphs immediately after paragraph (b)—
National Hospital Insurance Fund (Amendment)

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

(d) in the case of an employer who is the county governments or county government entity, a matching contribution, equal to that which their employee is liable to contribute under subsection (1)(c);

(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 subsection (2A); and

(f) in the case of the national government under subsection (1B), a special contribution, as the Board, in consultation with the Cabinet Secretary, may determine”.

(d) by inserting the following new subsections 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.

(e) by deleting subsection (3) and inserting the following new subsection—

"(3) A contribution under subsection (2)(a) and (b) shall be at such rate, depending on the person’s total income, as the Board, in consultation with the Cabinet Secretary, may determine."

(f) by inserting the following new subsection immediately after subsection (3)—

"(3A) Subject to such guidelines as the Board may, from time to time issue, a person who wishes to receive an enhanced benefit under section 22(3) may make additional voluntary contributions to the Scheme".

(g) in subsection (4) by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”; 

(h) by deleting subsection (5) and substituting therefor the following new subsection—

"(5) The contributions made to the Fund under subsection (2) shall be mandatory”.

(i) by inserting the following new subsection immediately after subsection (5)—
"(6) The Cabinet Secretary shall, in consultation with the Board, make regulations for the better carrying out of this section”.

17. Section 16 of the principal Act is amended—

(a) in the marginal note by inserting the word “and matching” immediately after the word “standard”;

(b) by inserting a new subsection immediately after subsection (1)—

“(1A) A person liable to pay a matching contribution under section 15 shall pay such contribution in their capacity as an employer and shall not deduct such contribution from the salary or other remuneration of the employee”.

(c) in subsection (2) by—

(i) inserting the words “and matching” immediately after the word “standard”;

(ii) deleting paragraph (c);

(d) in subsection (3) by—

(i) deleting paragraph (b);

(ii) deleting paragraph (c);

(e) by deleting subsection (4) and substituting therefor the following new subsection—

“(4) No sum deducted from the salary or other remuneration of an employee by his or her employer in accordance with the provisions of this Act shall be recoverable from the employer by that person once the contribution has been remitted to the Fund”.

(f) in subsection (6)—

(i) by inserting the words “or matching” immediately after the word “standard” appearing in paragraph (a);
(ii) by deleting the words “fifty thousand” and substituting therefor the words “five hundred thousand” in the closing statement;

18. Section 18 of the principal Act is amended—

(a) in the marginal note by inserting the words “and matching” immediately after the word “standard”;

(b) by deleting subsection (1) and substituting therefor the following new subsection—

“(1) If a standard or matching contribution which a person is liable to remit under section 16, has not been remitted by the day on which the payment of the standard or matching contribution is due, the person shall be liable to pay a penalty equal to the lending rate of interest, of the amount of the contribution, as may published by the Central Bank of Kenya from time to time.

(c) in subsection (2)—

(i) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) that employer shall be liable to pay the penalty prescribed in subsection (1) and pay the costs incurred by the employee that would have been covered by the Fund when seeking treatment from a contracted health care provider during the period when the contribution is due”;

(ii) by inserting the following new paragraph immediately after paragraph (b)—

“(c) 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
National Hospital Insurance Fund (Amendment)

health care provider during the period when the contribution is due.”

(d) in subsection (3), by inserting the words “and matching” immediately after the word “standard”.

19. Section 19 of the principal Act is amended—

(a) in subsection (2) by deleting the word “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).

20. Section 20 of the principal Act is amended by inserting the words “by unemployed persons” immediately after the words “voluntary contributions”.

21. The principal Act is amended by deleting section 21 and substituting therefor the following new section—

(1) The Board shall prescribe the mode of identification of a beneficiary, taking into account the existing legal framework for national registration.

(2) The Board may require a person who is liable to remit a payment for a standard and matching contribution under section 16 to furnish such information or particulars, or to produce such documents, as the Board deems necessary for that purpose.

(3) A person who—

(a) knowingly makes any false statement relating to a matter affecting his or her liability to remit a standard or matching contribution under section 16; or

(b) being required under subsection (2) to furnish information or particulars, or produce a document, refuses or neglects to do so without reasonable cause,
commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months, or to both.

(4) Evidence of the payment of contribution shall be deemed conclusive if the person liable to pay the contribution has—

(a) a record of remittance of the contributions; or

(b) in the case of a standard contribution, a record of the contributor’s monthly pay-slip that the contribution has been deducted from his or her salary.

22. The principal Act is amended by inserting the following new section immediately after section 21—

21A. The Board shall cause to be developed a centralized healthcare provider management system.

(2) The centralized healthcare provider management system shall be installed and used by all empaneled providers for the purpose of management of claims, payments and data collection.

(3) The Board may publish guidelines on the use of the centralized healthcare provider management system by empaneled and contracted health care providers.

23. Section 22 of the principal Act is amended by—

(a) deleting subsection (1) and substituting therefor the following new subsection—

“(1) The Board shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the
provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board.”

(b) deleting subsection (2);
(c) deleting 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.

(3B) The Board shall determine and approve the applicable tariffs payable to the Fund under section 15(3A) and payable out of the Fund under subsection (1), to empaneled contracted health care providers for an expense incurred by the provider for the provision of healthcare services to the number of beneficiaries determined by the Board.

(3C) 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.

(3D) 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(2)(a)(iv) and (v), 15, 22 and 43.”
(d) deleting subsection (4);
(e) inserting the following new subsection immediately after subsection (4)—

“(5) Where a beneficiary has a private health insurance cover—

(a) the private health insurance shall be liable for payment up to the limits the beneficiary is covered;
(b) the Fund shall pay the daily rebate, for inpatient; and
(c) the Fund shall cover the outstanding bill where private insurance cover’s limits for various benefits have been exhausted subject to the Fund’s applicable limits with respect to each benefit.”

24. The principal Act is amended by inserting the following new section immediately after section 22—

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.

25. The principal Act is amended by deleting section 23 and substituting therefor the following section—

Statements of account.

23. (1) The Board shall upon request avail a statement of accounts to a contributor, or a person who is liable to remit under section 16, with regard to their contributions.

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

27. Section 25 of the principal Act is amended—

(a) in subsection (1) by deleting the words “a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twenty-four months, or to both” and substituting therefor the words “a fine not exceeding one million shillings or to imprisonment for a term not exceeding sixty months, or to both”.

(b) in subsection (2)—

(i) by deleting paragraph (b); and

(ii) by deleting paragraph (c);

(iii) by deleting the words “a fine not exceeding five hundred thousand shillings” appearing in the closing statement and substituting therefor the words “a fine not exceeding one million shillings”.

(c) by deleting subsection (3);

(d) in subsection (4)—

(i) by deleting the words “Any declared hospital” and substituting therefor the words “A health care provider”;

(ii) by deleting paragraph (ii) and substituting therefor the following new paragraph—

“(ii) removal from the register of empaneled and contracted health care providers”.

(e) by deleting subsection (5) and substituting with the following new subsections—

“(5) The Board shall cause the name of every health care provider removed from the register under subsection (4)(ii) to be notified in the Gazette, at least two newspapers of national circulation and at the official website of the Fund.

(5A) A health care provider which has been removed from the register under
section (4)(ii) shall not be entitled to receive any benefit from the Fund”.

28. Section 26 of the principal Act is amended—

(a) in the marginal note by deleting the words “and stamps”;
(b) by deleting the word “Minister” appearing in the opening sentence and substituting therefor the word “Cabinet Secretary”;
(c) in paragraph (a) by deleting the expression “or to the issue of any stamps or to the issue or replacement of any cards under this Act”; and
(d) by inserting the following new paragraph immediately after paragraph (a)—

“(aa) the amount and rates of contributions payable by contributors into the Fund;”

(e) in paragraph (d) by deleting the words “who have no dependants or who fulfill such other conditions or requirements as may be prescribed in cases of voluntary contributions”.

29. Section 27 of the principal Act is amended by deleting the word “Minister” appearing in the opening sentence and substituting therefor the words “Cabinet Secretary”.

30. Section 29 of the principal Act is amended—

(a) in subsection (1) by deleting the word “Minister” appearing in the opening sentence and substituting therefor the words “Cabinet Secretary”;
(b) by inserting the following new subsections immediately after subsection (2)—

“(3) For the purposes of Article 94 (6) of the Constitution—

(a) the purpose and objective of the delegation under this Act is to enable the Board to make regulations for better carrying into effect the provisions of this Act;
National Hospital Insurance Fund (Amendment)

(b) the authority of the Board to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(4) The principles and standards applicable to the delegated power referred to under this Act are those found in—

(a) the Statutory Instruments Act, 2013;  

(b) the Interpretation and General Provisions Act;  

(c) the general rules of international law as specified under Article 2(5) of the Constitution; and  

(d) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.”

31. Section 30 of the principal Act is amended by—

(a) deleting the marginal note and substituting therefor the following new marginal note—

“Empanelment of Healthcare Providers.”

(b) deleting subsection (1) and substituting therefor the following new subsection—

“(1) The Board shall, in consultation with the relevant regulatory bodies specified under section 60 of the Health Act, publish in the Gazette, the list of empaneled health care providers for the purposes of this Act”.

(c) deleting subsection (2) substituting therefor the following new subsection—

“(2) A notice in the Gazette under subsection (1) may be made subject to such conditions relating to the fees which may be charged by the health care provider to any contributor under this Act, including conditions as to the amount of such fees and
the requirement of the Board’s consent to any variation thereof, as the Board considers it necessary and where any such conditions are made—

(a) the Board may publish such conditions in the Gazette or in such other manner considers it necessary; and

(b) a health care provider shall not charge any fees to any contributor under this Act which is contrary to such condition”.

(d) deleting subsection (3) and substituting therefor the following new subsections—

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

(4) Where the Board intends to revoke the empanelment of a health care 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.

(5) A health care provider may, upon receiving a notification under subsection (4) submit a written response to the notification within seven days.”

(e) inserting the following new subsections in proper chronological sequence—

“(6) A health care 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.
2022

National Hospital Insurance Fund (Amendment)

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

32. Section 31 of the principal Act is amended in subsection (1) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

33. Section 32 of the principal Act is amended—

(a) in subsection (1) by deleting the word “declared hospital” appearing in paragraph (b) and substituting therefor the words “empaneled and contracted health care provider”;

(b) in subsection (2) by—

(i) inserting the words “and matching” immediately after the word “standard” appearing in paragraph (a);

(ii) deleting paragraph (c) and substituting therefor with the following new paragraph—

“(c) in the case of an empaneled health care provider, whether the conditions, if any, attached to the empanelment or contracting have been met”.

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

(d) in subsection (6) by deleting the words “ten thousand shillings, or to imprisonment for a term not exceeding twelve months or to both” and substituting therefor the words “ten million shillings, or to imprisonment for a term not exceeding sixty months or to both”.

34. Section 34(1) of the principal Act is amended—

(a) in paragraph (a) by inserting the words “on the advice of the Central Bank of Kenya” immediately after the words “a reputable bank”;
(b) by inserting the following new paragraph immediately after paragraph (a)—
“(aa) in government securities as may be approved by the National Treasury;”

c) by deleting paragraph (b); and

d) by deleting the proviso.

35. Section 36 of the principal Act is amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

36. The principal Act is amended by deleting section 37 and inserting the following new section—

Accounts and audit.  37. (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund.

(2) The accounts of the Board shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.

37. The principal Act is amended by deleting section 38 and substituting therefor the following new section—

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.

38. The principal Act is amended by repealing section 41.

39. Section 42 of the principal Act is amended by inserting the following new subsection immediately after subsection (4)—
“(5) Despite any other written law, the assets of the Fund shall not be liable to attachment under any process of law.”

40. Section 43 of the principal Act by deleting the expression “Workmen’s Compensation Act (Cap. 236) or otherwise” and substituting therefor the expression “Work Injury Benefits Act, 2007”.

41. Section 45 of the principal Act is amended by deleting the words “fifty thousand” and substituting therefor the words “one million”.

42. The principal Act is amended by inserting the following new sections immediately after section 45—

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

45B. The provisions of the Retirement Benefits Act shall apply to the Fund only with respect to post-retirement medical contributions under section 3(2)(a)(v).

43. The First Schedule to the principal Act is amended in paragraph 6 by deleting the word “Minister” and substituting therefor the word “Cabinet Secretary”.

44. The Second Schedule to the principal Act is amended—

(a) by deleting paragraph 2 and substituting therefor the following new paragraph—

Vacation of office.

2. The office of a member of the Board, other than an ex-officio member, shall become vacant if the member—

(a) at any time resigns from office by notice in writing to the Cabinet Secretary;

(b) has been absent from three consecutive meetings of the Board without the permission from the Chairperson;
(c) is adjudged bankrupt or enters into a composition scheme or arrangement with creditors;
(d) is convicted of an offence involving dishonesty or fraud;
(e) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or
(f) is incapacitated by prolonged physical or mental illness.

(b) in paragraph 3—
(i) by deleting the words “and honorary treasurer” appearing in sub-paragraph (2) and substituting therefor the words “from among members of the Board except ex-officio members of the Board”;
(ii) by deleting sub-paragraph (3);
(iii) by deleting the word “nine” appearing in sub-paragraph (4) and substituting therefor the word “five”;
(iv) by deleting the words “standing orders” appearing in sub-paragraph (8) and substituting therefor the word “guidelines”;
(c) by deleting paragraph 5.

45. A person who is a member of the Board of the National Hospital Insurance Fund at the time of commencement of this Act shall serve for the remainder of his or her unexpired term.