

NATIONAL HEALTH INSURANCE ACT, 2021

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NATIONAL HEALTH INSURANCE ACT, 2021

AN ACT to establish a National Health Insurance Authority to implement a national health insurance scheme, establish a national health insurance Fund to pay for the cost of health care services to members of the Scheme, and to provide for the establishment of private health insurance schemes, and for connected matters.

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ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Health Insurance Act, 2021.

2. Interpretation

In this Act, unless the context otherwise requires –

"access to healthcare service" means in relation to the National Health Insurance Scheme, the provision of funding –

- (a) to pay the healthcare service bills of a person who receives healthcare, within the minimum benefit package provided in this Act, from a healthcare service provider contracted by the Authority to provide that service, and
- (b) to assist in paying for the cost of –
 - (i) provision of facilities required for the delivery of health care service under the insurance scheme, and
 - (ii) provision of support to expand facilities required for the delivery of health care service;

"Actuary" means an insurance risk analyst;

"ante-natal" means the period of pregnancy until delivery;

"Auditor" means a member of a body of Accountants recognised by any enactment and appointed as Auditor of a company or an external Auditor not in the permanent employ of a company;

"Auditor-General" includes an Auditor appointed by the Auditor General;

"Authority" means the National Health Insurance Authority established under section 5 of this Act;

"Board" means a duly appointed body of persons who are mandated to jointly supervise the activities and functions of the National Health Insurance Authority;

"card" means a health insurance membership card issued under this Act;

"child" means a person below the age of eighteen years;

"contribution" means the amount of money paid by or on behalf of a member to the National Health Insurance Scheme, a Private Commercial Health Insurance Scheme or a Private Mutual Health Insurance Scheme for membership of the scheme;

"credential" means a certificate of qualification and capability of a healthcare provider or healthcare facility that enables that person to provide healthcare services under a health insurance scheme;

"financial access" means risk protection against the cost of basic healthcare service;

"functions" includes powers and duties;

"Fund" means the National Health Insurance Fund established under section 46 of this Act;

"generic name" means an internationally known non-proprietary name;

"healthcare facility" includes a hospital, health centre, health post, nursing home, laboratory, maternity home, dental clinic, polyclinic, clinic, a pharmacy, licensed drug store, and other facilities that the Authority may determine;

"healthcare provider" includes a healthcare professional, a healthcare practitioner licensed to practice in The Gambia in accordance with a law in force, a Social Welfare officer, a professional Counsellor, and others that the Authority may determine;

"indigent" means an extremely poor person;

"material error" means an error that is sufficiently significant to affect the outcome of analysis or significantly influence an adjudication, judgment or decision;

"means test" means the process by which the scheme determines the ability of individuals or households to pay varying levels of contributions to the scheme;

"essential medicines list" means the list of medicines and therapeutics developed for use within the National Health Insurance Scheme or a private health insurance scheme;

"medicines tariff" means the list of prices at which the National Health Insurance Scheme or a private health insurance scheme will reimburse for medicines supplied under the benefit package of the Scheme;

"member" means a person registered under the National Health Insurance Scheme or a private health insurance scheme for the purpose of accessing benefits under the Scheme;

"Minister" means the Minister responsible for Health, and "Ministry" shall be construed accordingly;

"mental illness" means a condition of the mind in which there is a clinically significant disturbance of mental or behavioral functioning associated with distress or interference of daily life and manifesting as disturbance of speech, perception, thought, volition, severe depression orientation or other cognitive functions to such degree as to be considered pathological but excludes social deviance without personal dysfunction and moodiness or mere worry attributable to vicissitudes of life;

"policy holder" means a subscriber of a health insurance scheme with its benefit package;

"private mutual health insurance scheme" means a health insurance scheme operated exclusively for the benefit of its members;

"Private Health Insurance Scheme" includes private commercial health insurance schemes and private mutual health insurance schemes;

"post-natal" means the first six weeks after delivery of a baby;

"public health practitioner" means a person registered with the appropriate professional health regulatory body under the relevant law;

"quality assurance" means a formal set of activities to review and ensure the quality of healthcare services provided to members of health insurance schemes;

"Regulations" means a legislative Instrument made under this Act;

"region" means an administrative area of the country;

"related field" includes insurance, public health, economics, finance and management.

"resident" means-

- (a) a Gambian resident in The Gambia,
- (b) an individual who lives in The Gambia legally for six months or more in any period of twelve months, or
- (c) an employee or official of the Government posted abroad;

"Scheme" means the National Health Insurance Scheme established under section 31;

"service list" means a list of medical procedures and protocols developed for use within the National Health Insurance Scheme or private health insurance scheme;

"service tariff" means the list of prices at which the National Health Insurance Scheme or private health insurance scheme will reimburse for services contained in the Service List;

"Tribunal" means the adjudicatory body set up under this Act to exercise jurisdiction over the hearing and determination of any dispute arising under this Act; and

“universal health coverage” means a health care system in which all residents of a country or region are assured access to quality health care without financial hardship.

3. Application of the Act

This Act shall apply to the National Health Insurance Scheme and private health insurance schemes in The Gambia.

4. Administration of the Act

This Act shall be administered by the National Health Insurance Authority.

PART II – ESTABLISHMENT OF THE NATIONAL HEALTH INSURANCE AUTHORITY AND ITS GOVERNING BODY

5. Establishment of the National Health Insurance Authority

(1) There is established by this Act, the National Health Insurance Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and may –

- (a) sue or be sued in its corporate name;
- (b) enter into contracts and acquire, hold or dispose of property; and
- (c) so far as it is possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of a common seal of the Authority shall be authenticated by the signature of the Chairperson or any other person authorized by the Authority to sign on its behalf.

(4) A document bearing the imprint of the seal of the Authority is to be taken to be properly sealed unless the contrary is proved.

6. Object of the Authority

The object of the Authority is to ensure the attainment of universal health coverage in The Gambia.

7. Functions of the Authority

To achieve its objective, the Authority shall –

- (a) implement, operate and manage the National Health Insurance Scheme;
- (b) determine in consultation with the Minister, contributions that should be made by members of the National Health Insurance Scheme;
- (c) register members of the National Health Insurance Scheme;
- (d) register and supervise private health insurance schemes;
- (e) issue membership cards to members of the National Health Insurance Scheme;
- (f) ensure –
 - (i) equity in health care coverage,
 - (ii) access by the poor to healthcare services, or
 - (iii) protection of the poor and vulnerable against financial risk;
- (g) grant credentials to healthcare providers and facilities that provide healthcare services to members of the National Health Insurance Scheme;
- (h) manage the National Health Insurance Fund;
- (i) provide a decentralised system to receive and resolve complaints by members of the National Health Insurance Scheme and healthcare providers;
- (j) receive, process and pay claims for services rendered by healthcare providers;
- (k) undertake public education on health insurance on its own or in collaboration with other bodies;

- (l) make proposals to the Minister and Minister responsible for finance for the formulation of policies on health insurance;
- (m) undertake programmes that further the sustainability of the National Health Insurance Scheme;
- (n) develop guidelines, processes and manuals for the effective implementation and management of the National Health Insurance Scheme;
- (o) ensure the efficiency and quality of services under the national and private health insurance schemes;
- (p) protect the interest of members of private health insurance schemes;
- (q) identify and enroll persons exempted from payment of contribution to National Health Insurance into the National Health Insurance Scheme;
- (r) monitor and ensure compliance with this Act and any Regulations, guidelines, policies, processes and manuals made under this Act; and
- (s) perform any other function conferred on it by this Act or that are ancillary to the object of the Authority.

8. Establishment of the National Health Insurance Authority Board

(1) There is established by this Act, the National Health Insurance Authority Board, which shall be the governing body for the National Health Insurance Authority and consist of –

- (a) a Chairperson;
- (b) the Permanent Secretary of the Ministry;
- (c) the Permanent Secretary of the Ministry responsible for Finance;
- (d) the Director of Health Services;
- (e) the Managing Director of Social Security and Housing Finance Corporation;

- (f) the Chief Executive Officer of the Authority;
- (g) a representative of the health professional councils; and
- (h) the Commissioner of Insurance appointed under section 3 of the Insurance Act;

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- (i) a member of the National Health Insurance Scheme;
- (j) a member of a private health insurance scheme; and
- (k) the Permanent Secretary of the Ministry responsible for Gender, Children and Social Welfare.

(2) The non-ex-officio members of the Board shall be appointed by the President after consultation with the Public Service Commission.

(3) A person may only be appointed as a member of the Board if he or she –

- (a) in the case of the Chairperson, has not less than ten years professional experience in a related field of the Scheme;
- (b) in the case of any other member, has at least five years relevant professional experience;
- (c) has not been convicted of an offence involving fraud or dishonesty;
- (d) is not declared bankrupt;
- (e) is of sound mind and body;
- (f) has not been dismissed from the public service of The Gambia for misconduct; or
- (g) has not been disqualified for any reason from practicing his or her profession in The Gambia.

9. Functions of the Board

- (1) The Board shall –
- (a) ensure that the Authority perform its functions properly and effectively;
 - (b) oversee the development and implementation of a strategic plan of the Authority;
 - (c) oversee the development and implementation of human resource policies and strategies;
 - (d) approve corporate plans and budgets;
 - (e) monitor general and capital expenditures, procurements, acquisitions and divestitures and general capital management of the Authority;
 - (f) ensure the affairs of the Authority are conducted in a transparent and accountable manner;
 - (g) ensure optimum performance of staff of the Authority in delivering quality service to relevant stakeholders;
 - (h) ensure appropriate working relations between the Board, Management and Staff of the Authority;
 - (i) monitor and evaluate the performance of the Chief Executive Officer and the Senior Management Team;
 - (j) promote the goodwill and support of relevant stakeholders; and
 - (k) perform any other functions incidental to the execution of their mandate.
- (2) The Board shall, in the performance of its functions, act in good faith and with due care.

10. Tenure of office of members of the Board

- (1) The non-ex-officio members of the Board shall hold office for a period not exceeding three years and may be re-appointed only once.
- (2) A non-ex-officio member of the Board may resign from office by giving one month's written notice to the President through the Minister.

(3) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause may be removed from the Board.

(4) Where a non-ex-officio member of the Board is disqualified or unable to continue in office for any reason, the Minister shall declare his or her position vacant and arrange for a replacement member to be appointed by the President.

11. Meetings of the Board

(1) The Board shall meet at least once every three months for the discharge of the business of the Authority, at such place and time as the Chairperson may determine.

(2) The Chairperson shall at the request in writing of not less than one-third of the members of the Board, convene an extraordinary meeting of the Board.

(3) The Chairperson shall preside at meetings of the Board and in the absence of the Chairperson, the members of the Board present shall elect a member from amongst their number to preside.

(4) The quorum at a meeting of the Board shall be five members.

(5) Unless as otherwise provided in this Act, decisions shall be by a simple majority of the vote of the members present, but in the case of equality of vote, the presiding Chairperson shall have a casting vote.

(6) The Board may co-opt a person to act as adviser to its meeting but that person shall not vote on a matter tabled for a decision at a meeting.

(7) The proceedings of the Board shall not be invalidated because of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board shall regulate the procedure for its meetings.

12. Disclosure of interest

(1) A member of the Board who has a direct or an indirect interest in –

- (a) the affairs of any company or enterprise being deliberated upon by the Board; or
- (b) any contract proposed to be entered into by the Authority,

shall, as soon as possible after relevant facts have come to his or her knowledge, disclose the nature of his or her interest at the meeting of the Board.

(2) A disclosure made under sub-section (1) shall be recorded in the minutes of the meeting and the member concerned shall recuse himself or herself from the proceeding of the meeting on the matter.

(3) A member who breaches sub-sections (1) or (2) shall be removed from office.

PART III – COMMITTEES OF THE BOARD

13. Establishment of Committees

(1) There is established by this Act, the following Committees for the Board –

- (a) Complaints Review Committee;
- (b) National Health Insurance Oversight Committee;
- (c) Private Health Insurance Oversight Committee;
- (d) Audit Committee; and
- (e) Fund Management and Investment Committee.

(2) Notwithstanding sub-section (1), the Board may establish other Committees to assist it in performing any of its functions.

14. General provisions relating to Committees

(1) A committee of the Board shall be chaired by a member of the Board.

- (2) Subject to section 19, the Board shall determine the composition of its Committees and appoint the members of each Committee.
- (3) The provisions of section 11 apply mutatis mutandis to members of a committee.
- (4) A member of a committee shall hold office for a period determined by the Board.
- (5) The Chairperson of a Committee may summon a meeting of his or her Committee at such time as he or she may determine.
- (6) Subject to the prior approval of the Board, a Committee may co-opt any person whose knowledge or skills are necessary for the performance of the functions of the Committee.
- (7) A person co-opted by a Committee may attend the meetings of that Committee and participate in its deliberations but shall not have a right to vote at the meeting.
- (8) A Committee shall –
 - (a) regulate its own procedure; and
 - (b) periodically report to the Board on any matter relating to its activities.

15. Complaints Review Committee

- (1) The Complaints Review Committee shall hear and resolve complaints submitted to the Board by members of health insurance schemes, managers of health insurance schemes, managers of healthcare facilities and healthcare providers.
- (2) The Committee shall formulate and promulgate its standard operating manual and rules of procedure, including the following –
 - (a) the composition of the Committee;
 - (b) the tenure of members of the Committee;
 - (c) the powers of the Committee;
 - (d) relevant officers of the Committee;
 - (e) conduct of business and affairs;

- (f) sittings of the Committee
- (g) who may file a complaint;
- (h) where to file a complaint;
- (i) grounds for a complaint;
- (j) processing of a complaint;
- (k) procedures for investigation and fact-finding;
- (l) duties of investigation officers;
- (m) notice of hearings;
- (n) hearings;
- (o) witnesses;
- (p) determination; and
- (q) record of proceedings.

16. National Health Insurance Oversight Committee

The Committee shall evaluate the structure and operations of the Scheme and advise the Board on –

- (a) programmes that will educate the public about the Scheme;
- (b) registration systems for the Scheme;
- (c) contributions paid by members of the Scheme;
- (d) systems for identification and enrolment of disadvantaged groups into the Scheme;
- (e) systems for credentialing healthcare providers;
- (f) benefit packages for the Scheme;
- (g) guidelines and mechanisms for submission and adjudication of claims of health service providers; and
- (h) tariffs payable to healthcare providers.

17. Private Health Insurance Oversight Committee

The Committee shall evaluate the structure and operations of the private health insurance scheme, and advise the Board on –

- (a) driving strategic policy to oversee the private health insurance sector;
- (b) maintaining data and conducting studies on the condition of the overall financial market, the degree of market concentration, insurance coverage in the population, and health outcomes;
- (c) registration and licensing of private health insurance schemes;
- (d) compliance of private health insurance schemes with the Act;
- (e) the operations and affairs of private health insurance schemes, including examining the books of private health insurance schemes;
- (f) safeguards for consumer assistance;
- (g) safeguards for consumer protection;
- (h) monitoring procedures that private health insurance schemes use to report financial status, health service utilisation and grievance resolution; and
- (i) strategic engagements with the private sector and other relevant stakeholders to promote effective public-private partnerships for overall health insurance.

18. Audit Committee

The Committee shall –

- (a) review the report of the Internal Audit of the Authority;
- (b) interact and respond to queries of the Auditor-General;
- (c) assisting the Board in carrying out its duties in relation to audit reports and regulatory compliance under the Act;

- (d) review the adequacy of the internal controls and risk management strategy of the Authority;
- (e) review the objectives, plans and policies of the Internal Audit Department of the Authority;
- (f) review the quality of staff of the Internal Audit and their training needs;
- (g) request for reports from management on specific issues of internal control;
- (h) request for quarterly reports from the Internal Auditor on a subject; and
- (i) discuss with internal and external auditors the scope and nature of their operations.

19. Fund Management and Investment Committee

(1) The Committee shall comprise –

- (a) a chairperson who is a member of the Board and has a background in finance, accounting or investment;
- (b) a representative of the Ministry responsible for Finance appointed by the Minister of Finance;
- (c) the Governor of the Central Bank of The Gambia
- (d) Accountant General;
- (e) the Actuary of the Authority; and
- (f) the Head of the Finance Unit of the Authority as the secretary to the Committee with no voting or participatory right at meetings of the Committee.

(2) The Committee shall have an oversight responsibility for the management of the Fund established under section 46.

(3) For the purpose of overseeing the management of the Fund, the Committee shall –

- (a) arrange for the effective and efficient collection of monies assigned to the Fund;

- (b) advise the Board on mechanisms for growing the Fund through secure investment;
- (c) review and advise the Board on the annual expenditure programme proposed to be advanced from the Fund;
- (d) in reviewing and advising the Board on the annual expenditure programme, consider -
 - (i) the policy direction of the National Health Insurance Scheme,
 - (ii) the affordability of the overall programme, and
 - (iii) the appropriateness of the amount allocated for each item.

(4) The Committee shall perform any other function determined by the Board.

20. Allowances to Board members

Members of the Board, a committee of the Board and persons co-opted to attend meetings of the Board shall be paid such allowances as may be approved by the Minister in consultation with the Minister responsible for Finance.

PART IV – MANAGEMENT OF THE AUTHORITY

21. Appointment, qualification and functions of the Chief Executive Officer of the National Health Insurance Authority

- (1) The Chief Executive Officer is the head of the Authority.
- (2) The President shall appoint a Chief Executive Officer for the Authority, after consultation with the Board and the Public Service Commission.
- (3) A person is qualified for appointment as a Chief Executive Officer if he or she –
 - (a) is of sound mind and body;
 - (b) has had a minimum of ten years' experience in public administration with background knowledge in health financing;

- (c) has not been convicted by a court of competent jurisdiction of an offence involving dishonesty or national security;
 - (d) is not an undischarged bankrupt; and
 - (e) holds Master's Degree or its equivalence in a field related to the post he or she is to be appointed.
- (4) The Chief Executive Officer shall hold office on the terms and conditions specified in his or her letter of appointment.
- (5) The Chief Executive Officer shall be responsible for the day-to-day administration of the affairs of the Authority and shall be answerable to the Board.
- (6) The Chief Executive Officer shall –
- (a) provide leadership and guidance for determining policies and objectives of the Authority and implement such policies and objectives;
 - (b) co-ordinate work programmes of the Authority and provide rules, guidelines and procedures to facilitate the achievement of targets set by the Board;
 - (c) ensure that the programmes of the Authority are consistent with the policies developed by the Board;
 - (d) establish systems for effective sectorial, inter-agency and local-level coordination and collaboration;
 - (e) develop systems of effective workflow and feedback on the activities of the Authority;
 - (f) initiate plans and programmes to advance the objectives of the Schemes;
 - (g) supervise the preparation of action programmes and the disbursement of budgetary allocations in accordance with prevailing financial regulations;
 - (h) develop and implement code of conduct for administrative, financial and operational transactions;
 - (i) recommend actions involving disposal of capital assets;

- (j) ensure the development and enforcement of an effective system of discipline within the Authority; and
- (k) provide to the Board, financial position, strategic performance, operations, and the opportunities and challenges facing the Authority.

22. Deputy Chief Executive Officer of the National Health Insurance Authority

(1) The Board shall appoint a Deputy Chief Executive Officer for the Authority, after consultation with the Public Service Commission.

(2) A person is qualified for appointment as a Deputy Chief Executive Officer if he or she –

- (a) is of sound mind and body;
- (b) has had a minimum of ten years' experience in public administration with background knowledge in health financing;
- (c) has not been convicted by a court of competent jurisdiction of an offence involving dishonesty or national security;
- (d) is not an undischarged bankrupt; and
- (e) holds Master's Degree or its equivalence in a field related to the post he or she is to be appointed.

(3) The Deputy Chief Executive Officer shall perform such functions as may be assigned by the Chief Executive Officer.

23. Appointment of other staff of the Authority

The Board shall appoint other staff for the proper and effective performance of the functions of the Authority.

24. Regional offices of the Authority

(1) The Authority shall have such regional offices as may be determined by the Board.

(2) A regional office of the Authority shall perform such functions of the Authority as may be determined by the Board.

25. Directorates and units of the Authority

The Board shall establish such Directorates and Units as it considers necessary for the performance of the functions of the Authority.

26. Actuary

The Authority shall appoint an Actuary, who shall –

- (a) advise the Authority on risk assessment;
- (b) evaluate the impact of policies of the financial sustainability of the Scheme; and
- (c) perform any other related functions that may be assigned by the Chief Executive Officer.

27. Internal Auditor

(1) The Board shall appoint an internal Auditor for the Authority.

(2) The Chairperson of the Board shall submit a copy of the internal Auditor's report to the Minister and the Minister responsible for Finance.

28. Expenses of the Authority

The following expenses may be defrayed from the Fund of the Authority –

- (a) the cost of administration of the Authority;
- (b) reimbursement of expenses incurred by members of the Board, committees or staff authorised by the Board, in accordance with the rates approved by the Minister;
- (c) allowances to Board members, salaries, fees and other remuneration of staff, and other experts, or agents appointed by the Authority; and
- (d) expenses approved by the Board for the purposes of this Act.

29. Estimates, accounts and audit

(1) The Board shall, not later than three months before the end of each financial year, make and submit to the Minister for approval, estimates of the income and expenditure of the Authority for the ensuing year.

(2) The Authority shall keep proper records and accounts of its income and expenditure and prepare a statement of accounts for each financial year.

(3) The Board shall, within three months after the end of each financial year, submit its statement of accounts to the Auditor General for audit.

(4) The audited accounts of the Authority and the Auditor General's report of those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

30. Annual report

(1) The Board shall, not later than three months after the end of each financial year, submit to the Minister, in respect of the financial year, an annual report of the activities of the Authority.

(2) The annual report shall include –

- (a) information on the operations and performance of the Authority for the previous financial year;
- (b) a quantitative and qualitative assessment of the targets set by the Authority for the reporting period;
- (c) a report on the effect of the implementation of the National Health Insurance Scheme on the nation;
- (d) a summary of feedback, concerns and challenges from stakeholders of the Scheme;
- (e) recommendations for improving the National Health Insurance Scheme;
- (f) a report on the Fund specifying the total inflows, disbursements, investment returns and reserve and the average cost provided from the Fund to beneficiaries under the Scheme;
- (g) a copy of the audited accounts; and
- (h) such other information as the Minister may direct.

(3) The Minister shall, not later than three months after the end of the financial year, cause the report to be laid before the National Assembly.

(4) The Chief Executive Officer shall, from time to time, provide the Minister with such information relating to the affairs of the Agency as he or she may request.

PART V – THE NATIONAL HEALTH INSURANCE SCHEME

31. Establishment of the National Health Insurance Scheme

(1) There is established by this Act, the National Health Insurance Scheme.

(2) The purpose of the Scheme is to provide financial risk protection and assure access to healthcare for all residents of The Gambia in order to achieve universal health coverage.

32. Membership of the Scheme

A resident in The Gambia, who is not a member of a private health insurance scheme, shall be a member of the Scheme.

33. Registration

A resident of The Gambia shall register with the Scheme within two years of the coming into force of this Act.

34. Contributions

(1) Except as otherwise provided for in this Act, every resident of The Gambia shall pay the annual contributions determined by the Authority.

(2) The Accountant General shall deduct from every public officer an amount equivalent to twenty percent of the premium based on the net salary.

(3) The Government of the Gambia shall meet the cost of the premium, under this Act allowing for contributions referred to under sub-section (2).

35. Exemptions to contributions

The category of persons exempted from the payment of contributions under the Scheme include –

- (a) children under five years of age;

- (b) persons in need of ante-natal, delivery and post-natal healthcare services;
- (c) persons living with mental illnesses as defined in the regulations made under this Act;
- (d) persons classified by the Minister responsible for Social Welfare as an “**indigent**”;
- (e) categories of differently abled persons determined by the Minister responsible for Social Welfare;
- (f) Pensioners; and
- (g) persons above sixty-five years of age; and
- (h) such other persons designated by a Ministerial committee comprising –
 - (i) the Minister responsible for Finance,
 - (ii) the Minister responsible for Health, and
 - (iii) the Minister responsible for women, children and social welfare.

36. Benefits under the Scheme

(1) The Ministry shall in consultation with the Ministry responsible for Finance, prescribe the healthcare benefits packages to be provided under the Scheme.

(2) The Authority shall provide information to members at the point of registration, about the benefits packages, rights and responsibilities under the Scheme.

(3) The Minister shall, upon recommendation by the Board, make Regulations to provide for periodic reviews of the healthcare benefits packages provided under the Scheme.

37. Quality assurance

(1) The Authority shall ensure that healthcare providers to the Scheme implement policies that guarantee quality healthcare to members of the Scheme.

- (2) The policies shall include –
- (a) granting credentials;
 - (b) clinical audits;
 - (c) undertaking service utilization reviews and user perception reviews;
 - (d) technology assessments; and
 - (e) assessing compliance with any other standards mandated by The Gambia Standards Bureau.

38. Granting of credentials to healthcare providers and health facilities

- (1) The Board shall grant credentials to healthcare providers and health facilities to provide services to members of the Scheme.
- (2) The Board shall not grant credentials to healthcare providers or health facilities to provide services to members of the Scheme unless the healthcare providers or the health facilities have been licensed or certified by the relevant agency.
- (3) Healthcare providers to which credentials have been granted by the Board shall provide services to members of the Scheme only after entering into an agreement with the Authority.
- (4) The Minister, in consultation with the Board, shall by Regulations prescribe the criteria for granting credentials to healthcare providers and health facilities to operate under the Scheme.

39. Suspension or revocation of credentials to healthcare providers and healthcare facilities

- (1) The Board may suspend or revoke credentials of healthcare providers and healthcare facilities who or that fail to comply with the requirements for credentialing as determined by the Board.
- (2) The Board shall, before suspending or revoking the credentials of a healthcare provider or healthcare facility, give notice and an opportunity to be heard to the provider or managers of the facility.

40. Medicines list and medicines tariff

(1) The Authority shall in collaboration with healthcare providers and with the approval of the Ministry, develop a National Health Insurance Scheme Medicines List and Medicines Tariff derived from the Essential Medicines List approved by the Ministry.

(2) The National Health Insurance Scheme Medicine List and Tariff shall be reviewed every two years.

(3) Each medicine on the Health Insurance Medicines List shall be referred to by the generic name of the medicine unless it is necessary to use the brand name of the medicine.

41. Service list and service tariff

(1) The Authority shall, in collaboration with healthcare providers, develop a National Health Insurance Scheme Service List and Service Tariff for use within the Scheme.

(2) National Health Insurance Scheme Service List and Service Tariff shall be reviewed every two years.

42. Safeguards to prevent over or under use of healthcare services

(1) Each healthcare provider under the Scheme shall comply with the National Health Insurance Scheme Medicines List and Medicines Tariff and the National Health Insurance Scheme Service List and Service Tariff.

(2) The Authority shall undertake inspections to validate compliance with the Medicines List and Medicines Tariff and the Service List and Service Tariff.

43. Claims payable to healthcare providers

(1) Healthcare providers shall submit claims for services provided to members of the Scheme to the Authority within a period determined by the Authority.

(2) The Authority shall prescribe the format, procedure and place for the submission of a claim by a healthcare provider.

(3) The Authority shall reject a claim with a material error and shall communicate the rejection to the relevant healthcare provider within one month after receipt of the claim with a statement of the reason for the rejection.

(4) A healthcare provider may re-submit the claim after the error has been corrected.

(5) The Authority may reject or adjust the claim of a healthcare provider where –

(a) the claim is fraudulent, incorrect or incomplete, or

(b) the healthcare provider fails to comply with this Act or Regulations made under this Act without just cause.

(6) A person who is dissatisfied with a decision of the Authority under this section may appeal to the Tribunal.

44. Provider payment systems

The Authority shall pay healthcare providers based on a system of capitation or any other payment mechanisms that the Board, in consultation with the Ministry, may determine.

45. Data protection, privacy and security

(1) The Authority, private health insurance schemes, healthcare providers, and any other authorized persons or agents shall keep data collected on members from unauthorized access.

(2) The Minister shall prescribe guidelines for data privacy and protection for members of the Scheme and members of private health insurance schemes in accordance with data protection laws in The Gambia.

PART VI – THE NATIONAL HEALTH INSURANCE FUND

46. Establishment of the National Health Insurance Fund

There is established by this Act, the National Health Insurance Fund.

47. Objects of the Fund

(1) The object of the Fund is to mobilise financial resources to pay for –

- (a) the cost of healthcare services for members of the Scheme; and
- (b) other expenses connected to the running of the Authority and the Scheme.

(2) Moneys from the Fund shall be used –

- (a) to pay for the healthcare costs of members of the National Health Insurance Scheme;
- (b) to pay for approved administrative expenses in relation to the running of the National Health Insurance Scheme;
- (c) to facilitate provision of or access to healthcare service; and
- (d) to invest in any other facilitating programmes and projects to promote health services as determined by the Ministry in consultation with the Authority.

(3) The Authority shall, three months before the end of each financial year, submit to the National Assembly through the Ministry responsible for Finance for approval, the formula for the disbursement of the Fund in the next financial year.

(4) The Authority shall in the preparation of the formula and disbursement of moneys from the Fund, ensure the sustainability of the Scheme.

48. Sources of moneys for the Fund

(1) The sources of moneys for the Fund are –

- (a) two percentage points of the value of all goods and services purchased in The Gambia;
- (b) a reasonable amount on the cost of mandatory international health insurance for every air traveler to The Gambia;

- (c) five percentage points of taxes levied on telecommunication services;
- (d) two and a half percentage points of all revenue generated from the Gateway Monitoring System;
- (e) thirty percent of the funds from the Government injury compensation to be transferred to the Scheme;
- (f) twenty-five percentage points of all taxes on tobacco products;
- (g) fees charged by the Authority in the performance of its functions;
- (h) contributions made by members of the Scheme;
- (i) such reasonable amount of moneys obtained from petroleum products and services as determined by the Minister responsible for finance;
- (j) two percentage points from Senegambia Bridge revenue;
- (k) sin tax;
- (l) moneys appropriated to the Scheme by the National Assembly; and
- (m) grants, donations, gifts and any other voluntary contributions made to the Fund.

(2) The Minister responsible for Finance shall cause all moneys constituting the Fund to be transferred directly to the account of the Fund held at The Gambia Central Bank on or before the fifth day of the month following the month in which the funds accrue.

(3) The Board may invest part of the Fund in appropriate ventures approved by the Minister responsible for Finance and the Minister of Health.

49. Bank accounts for the Fund

Moneys of the Fund shall be paid into the bank accounts determined by the Board with the approval of the Accountant-General.

PART VII – PRIVATE HEALTH INSURANCE SCHEMES

50. Types of private health insurance schemes

The following types of private health insurance schemes may be established and operated in the country –

- (a) private commercial health insurance schemes, and
- (b) private mutual health insurance schemes.

51. Application to operate a private health insurance scheme

A body corporate may apply to operate a private health insurance scheme if –

- (a) in the case of a private commercial health insurance scheme, it is registered as a limited liability company under the Companies Act of The Gambia;
- (b) in the case of private mutual health insurance scheme, it is registered as a company limited by guarantee under the Companies Act of The Gambia; and
- (c) it is licensed by the Commissioner of Insurance appointed under section 3 of the Insurance Act.

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52. Application for registration and licence

(1) An application for registration and licence to operate a private health insurance scheme shall be made to the Board in the prescribed form.

(2) The application shall be submitted with the following documents and particulars –

- (a) two copies of the regulations intended to govern the operation of the scheme;
- (b) the names and particulars of members of the governing body of the proposed scheme;
- (c) the persons proposed to manage or administer the scheme and the qualifications of the persons;

- (d) a statement of the minimum number of persons to be covered by the scheme;
- (e) the proposed healthcare providers and health care facilities available to or proposed to be used by the scheme;
- (f) the healthcare benefits package under the scheme;
- (g) the proposed minimum contribution for membership; and
- (h) evidence of the availability of any minimum financial security required by the Authority.

(3) The Board may require an applicant to furnish it with any other information that it considers necessary in support of the application.

53. Registration and issue of licence

(1) The Board may register an applicant and issue it with a licence to operate the relevant scheme applied for if it is of the opinion that –

- (a) the applicant qualifies to be registered and licensed, having regard to the scheme to which the application relates;
- (b) the applicant has qualified officers to manage and administer the scheme; and
- (c) the applicant has complied with the requirements under this Act and any other enactment applicable to the type of health insurance scheme applied for.

(2) A person shall not operate a private health insurance scheme of any type in The Gambia unless it has been registered with the Authority and issued a licence for the purpose.

54. Duration and renewal of licence

The Minister shall make Regulations to govern the duration and renewal of a licence to operate private health insurance schemes and other incidental matters.

55. Variation of conditions of licence

(1) The Authority may, on giving reasonable written notice to a scheme –

- (a) vary or revoke any condition of a licence; or

(b) impose new conditions.

(2) A scheme may apply to the Authority in writing for a condition of a licence to be revoked or varied.

(3) Where on an application made under sub-section (2), the Board is satisfied that the condition for a licence is no longer necessary or should be varied, it may revoke or vary the condition.

(4) Where the Board revokes or varies a condition for a licence or imposes a new condition, the scheme shall deliver its licence to the Board for the licence to be varied accordingly.

56. Refusal to register and licence a scheme

(1) The Board may refuse to register and issue a licence for a scheme by notifying the applicant in writing of its decision, and stating the reasons for the refusal.

(2) Where the refusal to register and issue a licence is as a result of a non-material defect in the application, the Board may require the applicant to rectify the application within a specified period.

57. Suspension or revocation of licence of a scheme

(1) The Board may suspend or revoke the licence of a Scheme where it is satisfied that the Scheme –

- (a) has in any manner acted fraudulently;
- (b) has lost its financial ability to continue to operate;
- (c) is not operating in accordance with good administrative and accounting practices and procedures; or
- (d) has failed to comply with a provision of the Act, the Regulations and any other enactment applicable to the scheme.

(2) The Board shall, before suspending or revoking the licence, give the Scheme, notice of the default and provide it an opportunity to make representations to the Board.

(3) Where a licence expires, is revoked or suspended, the Board may apply to a Court for an order to protect and preserve the contribution of members and for an order that the Court considers appropriate, having regard to the best interest of members of the scheme.

58. Interim management of a Scheme

On suspending or revoking the licence of a Scheme, the Board may, after consultation with the governing body of a Scheme –

- (a) place the Scheme under an interim management team;
or
- (b) arrange for the transfer of the activities or business of the Scheme to another Scheme, subject to conditions that are agreed on by the parties and approved by the Board.

59. Representations to the Complaints Review Committee

(1) A person refused registration or whose licence is suspended or revoked by the Board may within sixty days after the date of receipt of notification of the refusal, suspension or revocation, make representations to the Complaints Review Committee for a determination.

(2) The Committee shall make a decision within thirty days of receipt of the representations.

(3) A person dissatisfied with the decision of the Committee may seek redress in the Tribunal within thirty days after the receipt of the decision.

60. Prohibition of private health insurance service without licence

(1) A person shall not conduct an activity under a name which includes "health scheme", "medical insurance scheme", "health insurance scheme" or a similar name which is calculated or likely to lead people to believe that that person operates a private health insurance scheme, unless the scheme is registered and licensed under this Act.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine not more than one hundred thousand dalasis or imprisonment for a term not more than one year or to both.

(3) A body corporate who acts contrary to sub-section (1) commits an offence and is liable on conviction to a fine of five million dalasis.

61. Transfer and joint operations

- (1) A private health insurance scheme licensed under this Act shall not transfer its activities or operate its activities jointly with another scheme, unless it has the prior written approval of the Board.
- (2) An application for approval under sub-section (1) shall be made jointly to the Board by the schemes involved and shall contain the information prescribed under this Act.
- (3) Before determining an application for approval under sub-section (2), the Board shall investigate the desirability of the change, having regard to the best interest of the members of the scheme.
- (4) The Board shall conduct a public hearing before determining an application under this section.
- (5) A person dissatisfied with the decision of the Board may apply to the Tribunal for a review of the decision.

62. Gazette notification

On the licensing, transfer, suspension or revocation of the licence of a scheme, the Board shall publish the fact, together with the name and particulars of the relevant scheme in the Gazette and newspapers of national circulation that the Board shall determine.

63. Display of licence

A licensed private health insurance scheme shall display its licence in a prominent place at its offices.

Sub-Part 1 – PRIVATE COMMERCIAL HEALTH INSURANCE SCHEMES

64. Membership

A person may enroll to be a member of a private commercial health insurance scheme.

65. No Subsidy for private commercial health insurance scheme

A private commercial health insurance scheme shall not be entitled to a subsidy from the Fund.

66. Contribution of members

The contribution of members to a private commercial health insurance scheme shall be –

- (a) determined by the governing body of that scheme; and
- (b) paid in the manner and at the time determined by the governing body of the scheme.

67. Provision of security

(1) A private commercial health insurance scheme shall, as a condition for registration and licensing by the Authority, deposit with the Central Bank of The Gambia, such amount of money as the Authority may prescribe as security for its members.

(2) The security deposit referred to in sub-section (1) shall take into account any prior security deposit maintained by the company in respect of health insurance scheme.

(3) The security referred to under sub-section (1) shall be maintained throughout the period that the business of private commercial health insurance is carried on.

(4) The Authority may from time to time review the amount of the security deposit.

68. Withdrawal from the security deposit

(1) Where a private commercial health insurance scheme suffers a substantial loss arising from liability to members and the loss cannot reasonably be met from its available resources, the Authority may after ascertaining the nature of the claim and on application made to it by the commercial scheme –

- (a) approve the withdrawal from the security deposit of the scheme of an amount of not more than fifty percent of the security deposit; and
- (b) an amount withdrawn shall be replaced by the scheme not later than six months after the date of the withdrawal.

(2) Where the private commercial health insurance scheme is unable to replace the amount withdrawn from the security deposit within the requisite timeframe, the Board shall determine whether to grant an extension or to suspend the licence of the scheme.

(3) The security deposit is the asset of the private commercial health insurance scheme, except –

- (a) as provided in sub-section (1), it shall be available to the scheme only in the event of the closure or winding up of the health insurance business for the discharge of the liabilities arising out of policies transacted by the insurer, and
- (b) remaining undischarged at the time of the closure or winding up of the insurance business.

69. Application of Insurance Act

Subject to this Act, the following provisions of the Insurance Act shall apply to private commercial health insurance schemes –

[cap. 97:01]

- (a) requirement as to capital;
- (b) margin of solvency;
- (c) deposit;
- (d) reservation of deposits;
- (e) refund of deposit;
- (f) power to require investment of insurance fund;
- (g) record to be kept;
- (h) separation of accounts and reserve funds;
- (i) minimum basis of calculation of liabilities;
- (j) revaluation of liability;
- (k) restriction on change in control;
- (l) insolvency;
- (m) power to impose requirements for protection of policy holders;
- (n) winding-up by the Court;

- (o) Commissioner's power to petition for winding up of insurers;
- (p) Rules relating to winding-up;
- (q) receipt of premium valid to contract of insurance;
- (r) confidentiality;
- (s) duty to disclose material facts;
- (t) test of materiality;
- (u) effect of misstatement;
- (v) inspection of balance sheet by policy holders; and
- (w) publications referring to authorised capital etc. of registered insurers

Sub-Part 2–PRIVATE MUTUAL HEALTH INSURANCE SCHEMES

70. Establishment of private mutual health insurance schemes

- (1) A group of persons resident in The Gambia may form and operate a private mutual health insurance scheme.
- (2) A private mutual health insurance scheme shall be registered as a company limited by guarantee under the Companies Act.

71. Headquarters of a private mutual health insurance scheme

- (1) A private mutual health insurance scheme shall have its headquarters at such place as the governing body of the scheme shall determine.
- (2) The address and any other particulars of the headquarters shall be furnished in writing to the Authority.

72. Management of a private mutual health insurance scheme

A private mutual health insurance scheme may be managed by an independent manager appointed by its governing body and approved by the Authority.

73. Security deposit

- (1) The Authority shall require a private mutual health insurance scheme to maintain a reserve fund equivalent to six months operational income.

(2) The reserve fund shall be constituted within three years after the commencement of the scheme.

74. Minimum membership

A private mutual health insurance scheme shall –

- (a) have the minimum membership that the governing body of the scheme shall determine; and
- (b) provide a clear method of enrolment of members.

75. Contribution by members

(1) The contributions of members of the scheme shall be determined by the governing body of the scheme.

(2) The contribution shall be paid in such manner as the governing body of the scheme directs.

76. Benefit of members

(1) A private mutual health insurance scheme shall –

- (a) be operated exclusively for the benefit of the members; and
- (b) provide the members with the health benefits that the governing body of the scheme shall determine.

(2) Notwithstanding sub-section (1), the minimum healthcare benefit shall not be below the minimum healthcare benefits as pertains under the national health insurance scheme.

77. No subsidy for private mutual health insurance scheme

A private mutual health insurance scheme shall not be entitled to receive subsidy from the National Health Insurance Fund established under this Act.

Sub-Part 3 – MISCELLANEOUS PROVISIONS REGARDING PRIVATE SCHEMES

78. Governing body, appointment of scheme managers and other employees

(1) A private scheme shall have a governing body which shall be responsible for the direction of the policies of the scheme and appointment of employees.

(2) A private scheme shall have a scheme manager who shall be responsible for the management of the scheme.

(3) A private scheme manager may be an independent body corporate or a committee.

(4) A private scheme shall in addition to the scheme manager, appoint other officers and employees for the effective management of the scheme.

(5) Where a private scheme manager or a person on the management team of a private scheme ceases to be employed by the private scheme, the governing body of the private scheme shall inform the Authority in writing and take immediate steps to appoint a new manager or any other person for the scheme.

(6) The Minister may by Regulations, provide further for the qualifications of directors, scheme managers and any other employees of private health insurance schemes.

79. Participation by dependents

The dependents of a member may in accordance with the constitution of the private scheme, participate in the private scheme and receive the same benefits as the member subject to the reasonable variation in the level of contribution by the member, based on the number of the dependents.

80. Financial obligation of private schemes

(1) The Board shall determine the financial security deposit that should be deposited by a scheme as security to meet the liabilities of the scheme, having regard to the security deposit requirements mandated by the Insurance Act.

[cap. 97:01]

(2) The Minister responsible for Finance may by Regulations provide for the manner in which the Board shall exercise the powers in sub-section (1).

81. Accounts, audit and annual reports of private schemes

(1) A private scheme shall keep books of accounts and proper records in respect of the accounts.

(2) In addition to the provisions in the Companies Act, a private scheme shall submit an annual report in a prescribed form to the Authority within three calendar months after the thirty-first day of December of the preceding year.

(3) A private scheme shall have its accounts audited by its Auditors and a copy of the audit reports shall be submitted with its annual report to the Authority.

(4) An Auditor shall not be an employee, manager, or director of the scheme.

82. Amendment of annual report

(1) Where in the opinion of the Authority, an annual report submitted by a scheme is incorrect or is not prepared as prescribed, the Authority may by notice in writing, call on the scheme to amend the report or to submit a correct report within one thirty days.

(2) Where the scheme fails to comply with a notice referred to in sub-section (1) to the satisfaction of the Authority, the Authority may amend the report and give the scheme particulars of the proposed amendment or reject the report.

(3) A report amended by a scheme or the Authority under this section shall be treated as if it had been originally submitted in its amended form.

(4) Where the scheme is dissatisfied with the amendment by the Authority, the scheme may appeal to the Tribunal within thirty days after receipt by the scheme of the amended report.

83. Standards of principal officers of private scheme

(1) A private scheme shall employ at all times, directors, principal officers and expert technical staff.

(2) Without prejudice to sub-section (1), a person does not qualify to be a director, manager, secretary or any other officer of a health insurance scheme if he or she is convicted for an offence involving fraud or dishonesty.

(3) Except with the express permission of the Authority, a person who was a member of the Board or of senior management of an insurance company at the time it was wound up pursuant to an order of a Court, shall not participate in the management or direction of a health insurance scheme for a period of five years after the winding up.

84. Notification of certain changes

A private scheme shall within two months of a change in the senior executive personnel or technical operation of the scheme notify the Authority in writing of the change and of the particulars relating to it.

85. Furnishing of information to the Authority

A private scheme shall furnish the Authority with the essential information concerning its capitalisation, its reserves and any other information required by the Authority.

86. Inspection of annual report

(1) A member of a private scheme may inspect a copy of the annual report of the scheme during official business hours, at the principal office of the scheme.

(2) A fee shall not be paid to the scheme for an inspection under sub-section (1).

(3) A member of a scheme may request for a copy of the annual report of the scheme and on payment to the scheme of the relevant fee, the scheme shall supply a copy of the report to the member.

87. Financial year of private schemes

The financial year of a private scheme shall be from first day of January to the thirty-first day of December.

88. Minimum health care benefits

(1) A licensed private health insurance scheme shall provide to its Members, the agreed minimum health insurance benefits.

(2) Notwithstanding sub-section(1), the minimum healthcare benefits so agreed shall not fall below the minimum healthcare benefits pertaining to the national health insurance scheme.

PART VIII – GENERAL PROVISIONS RELATING TO ALL HEALTH INSURANCE SCHEMES

89. Health insurance membership card

(1) On the registration by a scheme of an individual as a member, the scheme shall issue to the member a health insurance membership card.

(2) The following materials shall be issued with the membership card –

- (a) a booklet containing membership rights, obligations and privileges;
- (b) a list of the healthcare benefits available under the scheme;
- (c) a list of healthcare providers and health facilities provided with credentials by the Authority to offer services to members of the scheme and the periods or time of their availability; and
- (d) information on the dispute resolution mechanisms available to members.

(3) The membership card shall have a unique number assigned permanently to the member.

(4) In the event of loss, the membership card shall be replaced on payment of a prescribed fee.

(5) A member who applies for the replacement of a membership card for a reason other than expiration or loss shall surrender the unexpired membership card.

(6) Notwithstanding any other provision of this section, the Authority may accept the use of a membership card authorized under any enactment to be used for all purposes of identification.

90. Termination or suspension of membership

(1) A scheme may only terminate or suspend a member on any of the following grounds –

- (a) failure to pay contribution within the stipulated time;
- (b) submission of false or fraudulent claims;

- (c) commission of any act of fraud in relation to the scheme; or
- (d) non-disclosure of material information requested by the scheme.

(2) The Minister may by Regulations provide for matters relating to termination or suspension of a member of a scheme.

91. Settlement of complaints

(1) A scheme shall provide a procedure for settlement of complaints from its members and its healthcare providers.

(2) A scheme shall ensure that the members and healthcare providers are aware of their right to submit complaints to the Tribunal where there is failure to settle a complaint raised with the scheme.

92. Quality assurance

The Authority shall, in consultation with Health Professional Councils and The Gambia Standard Bureau, put in place systems that secure quality assurance, including utilisation reviews, user perception reviews, technology assessments, and any other standards mandated by The Gambia Standards Bureau to guarantee that –

- (a) the quality of healthcare services delivered are of good quality and high standards;
- (b) the use of medical technology and equipment is consistent with actual needs and standards of medical practice;
- (c) medical procedures and the administration of drugs are appropriate, necessary and comply with accepted medical practice and ethics; and
- (d) drugs and medications used for the provision of health care in the country are in compliance with the essential medicines list of the Ministry.

93. Safeguards to prevent over or under use of healthcare services

A scheme shall develop a medicines list, medicines tariff, service list and service tariffs to prevent –

- (a) over or under use of healthcare services;
- (b) unnecessary diagnostic and therapeutic procedures and intervention;
- (c) irrational medication and prescriptions; and
- (d) inappropriate referral practices.

94. Use of healthcare providers and health facilities

(1) A scheme shall not use the services of a healthcare provider or a health facility in the operation of the scheme, unless the healthcare provider or the health facility –

- (a) has been licensed by the relevant agency; and
- (b) is granted credentials by the Authority to provide services to the scheme.

(2) The Minister may by regulations, prescribe the qualifications, requirements, and any other matters the Authority considers necessary in respect of the granting of credentials to healthcare providers and healthcare facilities to operate under the schemes, including procedure for suspending and revoking of credentials.

95. Tariffs payable to healthcare providers

(1) Tariffs payable to healthcare providers shall be paid within a period as may be determined by the scheme and healthcare providers operating under the scheme.

(2) The Minister may by Regulations, prescribe matters relating to the payment of tariffs to healthcare providers.

(3) A scheme may deny or reduce the claim of a healthcare provider if –

- (a) the scheme considers that the claim is false, incorrect or there is provision of insufficient information; or

- (b) the healthcare provider without just cause fails to comply with a provision of this Act or of the Regulations.

96. Actuary for private health insurance schemes

The Board may –

- (a) where it has reasonable grounds to believe that a licensed private health insurance scheme has contravened a provision of this Act or of the Regulations and the contravention adversely affects the interest of the members; or
- (b) at the request of a health insurance scheme,

appoint an Actuary to investigate and report to the Board, the activities and affairs of the scheme.

97. Powers of an Actuary

An Actuary appointed under section 96 -

- (a) shall have access to any information or document in the possession, or under the control of the scheme where the actuary reasonably requires access for the proper performance of the actuary's functions; and
- (b) may require a manager or an employee of the scheme to answer questions or produce documents for the purpose of enabling the actuary to perform properly the actuary's functions.

98. Inspection of schemes

(1) The Authority may for the purposes of supervision of health insurance schemes –

- (a) inspect the premises, business and affairs, including the procedures and systems of a scheme;
- (b) inspect the assets, including cash, belonging to or in the possession or control of a person who has a relation with the scheme; and

- (c) examine and make copies of documents, including accounting records, that belong to or are in the possession or control of a person who in the opinion of the Board has activities that relate to the activities of a scheme.

(2) The Authority may appoint suitably qualified and experienced persons to assist it or carry out an inspection on its behalf.

(3) Without limiting sub-section (1), the Authority shall ensure that an inspection is carried out in respect of a licensed health insurance scheme at least once in every twelve months.

(4) After the inspection, the Authority shall compile a report stating the status of the scheme and submit a copy of the report including its recommendations to the scheme for compliance, where applicable.

PART IX – THE NATIONAL HEALTH INSURANCE TRIBUNAL

99. Establishment of the National Health Insurance Tribunal

There is established by this Act, the National Health Insurance Tribunal to exercise the jurisdiction, powers and authority conferred on it by this Act.

100. Composition of the Tribunal

- (1) The Tribunal shall consist of three persons comprising –
 - (a) a first class Magistrate, who shall be the chair; and
 - (b) two other persons with qualifications in the field of insurance, health or finance.
- (2) A member of the Tribunal shall have at least five years' experience in his or her relevant field of expertise.

101. Tenure and conditions of service of members of the Tribunal

- (1) The members of the Tribunal shall be appointed by the Judicial Service Commission for a period of five years and may be reappointed only once.
- (2) The members of the Tribunal shall be subject to the conditions of service prescribed by the Judicial Service Commission.

102. Resignation and removal of members of the Tribunal

- (1) A member of the Tribunal may, by notice in writing addressed to the Minister, resign from his or her position.
- (2) A member of the Tribunal shall be removed from office if he or she is guilty of serious misconduct in relation to his or her duties.

103. Jurisdiction of the Tribunal

- (1) The Tribunal shall hear and determine any dispute arising from the implementation of this Act and Regulations made under this Act.
- (2) Notwithstanding sub-section (1), the Tribunal shall not have jurisdiction to determine a dispute unless it has first been submitted to the internal dispute resolution mechanism of a scheme.
- (3) The rules of procedure for the Tribunal shall be the rules applicable to subordinate courts in The Gambia.

PART X – MISCELLANEOUS

104. Regulations

- (1) The Minister may, on the advice of the Authority, make Regulations generally for the effective implementation of this Act.
- (2) Regulations may –
 - (a) prescribe reports to be submitted to the Minister by the Authority and the Healthcare providers;
 - (b) provide for matters relating to registration of members of health insurance schemes;
 - (c) provide for matters relating to health insurance membership cards;
 - (d) prescribe contributions to be paid by members of the National Health Insurance Scheme;
 - (e) prescribe the mode of payment of contributions by members of the National Health Insurance Scheme;
 - (f) provide matters relating to suspension of membership of National Health Insurance Scheme;

- (g) provide for matters relating to healthcare benefits under the National Health Insurance Scheme;
- (h) prescribe the means test for members exempted from paying contributions;
- (i) prescribe requirements and procedures for granting credentials to healthcare providers and healthcare facilities, including procedures for the suspension or revocation of the credentials;
- (j) prescribe matters relating to quality assurance of service provided under both the National Health Insurance Scheme and Private Health Insurance Schemes;
- (k) provide for matters relating to the determination, revision and payment of tariffs to healthcare providers within the National Health Insurance Scheme;
- (l) prescribe for matters relating to the submission and processing of claims within the National Health Insurance Scheme;
- (m) provide procedures for the resolution of complaints and disputes by the Authority and for provision of feedback;
- (n) prescribe the percentage of the Fund to be used for activities that directly facilitate access to healthcare;
- (o) provide for matters relating to the payment of claims for healthcare service rendered by healthcare providers to members of the National Health Insurance Scheme;
- (p) provide for the fees to be paid by Private Health Insurance Schemes;
- (q) provide for the coverage of non-resident persons by Private Health Insurance Schemes;
- (r) provide for other matters in relation to Private Health Insurance Schemes;
- (s) provide further in respect of financial security deposit of schemes; and
- (t) provide for other matters that are necessary for the effective implementation of this Act.

