

THE NATIONAL HEALTH FUND ACT

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THE NATIONAL HEALTH FUND ACT

Act
23 of 2003

[1st April, 2003.]

PART I. Preliminary

1. This Act may be cited as the National Health Fund Act.

Short title.

2. In this Act—

Interpretation.

“appointed day” means the 1st day of April, 2003.

“Board” means the Board of Management of the Fund;

“chairman” means the chairman of the Board;

“functions” includes powers and duties;

“Fund” means the National Health Fund established under section 4;

“registered medical practitioner” means a medical practitioner registered under the Medical Act;

“resident” means a person who is ordinarily resident in Jamaica for a period or periods aggregating in the whole not less than six months in the calendar year;

“specified diseases” and “specified medical condition” mean the diseases and medical conditions specified in the First Schedule.

First
Schedule.
Principal
objects of
Act.

3. The principal objects of this Act are to—

(a) provide prescribed health benefits to all residents, regardless of age, gender, health or economic status;

(b) provide greater access to medical treatment and preventative care for specified diseases and specified medical conditions;

(c) secure improvement in the productivity of residents by reducing time lost on the job that is attributable to personal and family health care problems;

- (d) reduce the Island's disease burden through health promotion and protection programmes; and
- (e) provide support to health services and promote and encourage the utilization of primary health care to improve the quality of life of the Island's population.

PART II. *National Health Fund*

Establishment of the National Health Fund.

4.—(1) There is hereby established for the purposes of this Act, a body to be known as the National Health Fund which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Second Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Fund and otherwise in relation thereto.

Functions of the Fund.

5. The Fund shall perform such functions as may be necessary to give effect to the objects specified in section 3 and, without prejudice to the generality of the foregoing, such functions shall include—

- (a) implementing a national health insurance plan or such other schemes of insurance, contractual or other arrangements or systems;
- (b) administering and controlling the moneys received from—
 - (i) the Consolidated Fund and assigned by Parliament for the purpose;
 - (ii) the Special Consumption Tax for the purposes of this Act; and
 - (iii) any other sources in accordance with the provisions of this Act;
- (c) utilizing the revenues received by the Fund to achieve the objects of the Act;
- (d) providing health benefits for residents with specified diseases and specified medical conditions;

- (e) making prescribed drugs and other benefits available to residents at government-owned and other health facilities;
- (f) arranging and providing mechanisms for the utilization of benefits under the Fund;
- (g) enhancing the usefulness of the Fund by promoting improved methods and levels of efficiency in the delivery of health care;
- (h) investing the moneys of the Fund;
- (i) entering into agreements with other persons for the better administration of the Fund; and
- (j) doing or causing to be done such other things as are necessary or expedient for or in connection with the proper performance of the functions of the Fund.

6.—(1) There shall be established for the purposes of this Act, a Board of Management of the Fund which shall, subject to the provisions of this Act, be responsible for the policy and general administration of the affairs of the Fund.

Establishment and function of Board of Management.

(2) The provisions of the Third Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

Third Schedule.

7. Every resident who—

Beneficiaries of the Fund.

- (a) is certified by a registered medical practitioner as suffering from a specified disease or specified medical condition;
 - (b) presents a valid and approved means of identification; and
 - (c) otherwise satisfies the requirements of the Fund,
- shall be entitled to benefits under the Fund.

8. The Minister may, after consultation with the chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the discharge of its functions as appear to the Minister to be necessary in the public interest; and the Board shall give effect to those directions.

Policy directions.

PART III. *Financial Provisions*

Resources of
the Fund.

9.—(1) The financial resources of the Fund shall consist of—

- (a) such moneys as may from time to time be placed at its disposal for the purposes of this Act by Parliament;
- (b) any moneys payable to the Fund from any levy or tax, as the case may be, on tobacco and tobacco products authorized under this or any other Act;
- (c) 5% of the amount collected by way of Special Consumption Tax or such other percentage as may be specified by the Minister responsible for finance, subject to affirmative resolution of the House of Representatives;
- (d) moneys received from the National Insurance Fund;
- (e) moneys received from loans or otherwise;
- (f) moneys earned by or arising from investments made by or on behalf of the Fund; and
- (g) such other moneys as may lawfully be paid to the Fund.

(2) All moneys received or amount collected under subsection (1)(b), (c) and (d) shall be paid forthwith and directly to the Fund.

Application
of revenues.

10. The revenue and financial resources of the Fund shall be applied for the purposes authorized by this Act or any other law in relation to its functions.

Borrowing
powers.

11.—(1) Subject to subsection (2), the Fund may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Fund to borrow shall be exercisable only with the approval of the Minister responsible for finance, as to the amount, as to the source of borrowing and as to the terms on which borrowing may be effected.

(3) An approval given in any respect for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

12. All moneys of the Fund not immediately required to be expended in meeting any of its obligations or discharging any of its functions may be invested in such securities as may be approved either generally or specifically by the Minister after consultation with the Minister responsible for finance and the Fund may, with the approval of the Minister after consultation with the Minister responsible for finance, sell all or any of such securities.

Power to invest moneys.

13.—(1) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and interest on any authorized borrowings of the Fund.

Guarantee by Minister of Finance for borrowing by Fund and repayment of sums issued to meet guarantees.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the Consolidated Fund and assets of Jamaica of the amount in respect of which there has been such default.

(3) The Fund shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Accounts and
audit.

14.—(1) The Fund shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister being a form which conforms with established accounting principles.

(2) The accounts of the Fund shall be audited by an auditor appointed annually by the Fund and approved by the Minister.

(3) The following persons, namely—

- (a) the accounting officer for the Ministry; and
- (b) officers so authorized by the Minister,

shall be allowed to have access to all the accounts and records of the Fund and to all such information as is necessary to carry out the audit.

(4) As soon as the accounts of the Fund have been audited, the Board shall send the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Fund.

(5) The auditor's fees and expenses of the audit shall be paid by the Fund.

(6) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records in relation to the business of the Fund.

Annual
report.

15.—(1) The Board shall, within six months after the end of each financial year, cause to be made and shall submit to the Minister a report—

- (a) dealing generally with the proceedings and activities of the Fund during the preceding financial year; and
- (b) containing—
 - (i) information relating to the proceedings of the Fund; and
 - (ii) the operational plans within which the Fund proposes to carry out its functions,

as can be made public without detriment to the interest of the Fund.

(2) The Minister shall cause a copy of the report, together with the annual statement of accounts and the auditor's report thereon to be laid on the Table of the House of Representatives and the Senate.

16. The Fund shall be exempt from the payment of income tax.

Exemption from income tax.

17. The Fund shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval estimates of income and expenditure of the Fund for the ensuing financial year.

Estimates of revenue and expenditure.

18.—(1) Any claim or question arising in connection with benefits under the Fund shall be determined by the Board after such inquiry as it may deem necessary.

Claims to be determined by Board.

(2) Any person aggrieved by a decision of the Board under subsection (1) may, within twenty-one days of being informed of such decision, appeal to a Tribunal established by the Minister by regulations under this Act.

PART IV. *Miscellaneous*

19. The Minister may from time to time appoint inspectors who shall perform such duties as may from time to time be assigned to them under this Act or any regulation made hereunder.

Appointment of inspectors.

20. In carrying out the duties assigned pursuant to section 19, an inspector shall—

Powers of inspectors

(a) inspect the operations of the Fund in relation to—

(i) its activities under the Act;

(ii) the efficient and effective management of the resources of the Fund by participating pharmacies;

- (b) inspect any records or things relevant to the inspection;
- (c) require the production of records or other things relevant to the inspection, including things that are kept off the premises;
- (d) question an officer or other employee of the Fund on matters relevant to the inspection, subject to that person's right to be represented during the questioning by an attorney-at-law or other person;
- (e) use a data storage, processing or retrieval devices or other systems in order to produce a record in readable form;
- (f) if he considers necessary, remove a record or sample or any other thing considered relevant to the inspection and shall provide a receipt for any such record, sample or thing;
- (g) review or copy a record or other thing removed;
- (h) employ experts to render such assistance for the purposes of the inspection as the inspector considers necessary;
- (i) address such other matters that are required or prescribed by the Minister; and
- (j) if he is denied access, request the assistance of a constable to gain such access.

Offences

Assaults and obstruction of inspectors.

21. A person who willfully delays, assaults or obstructs an inspector in the exercise of his functions under this Act commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

Refusal or neglect to give information.

22. A person who, without lawful excuse, refuses to furnish any information or to produce any document when required to do so by an inspector, commits an offence and shall be liable on

summary conviction before a Resident Magistrate to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding three months.

23. A person who knowingly makes any false declaration or false statement of a material nature in any application made under this Act, commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

False declaration and statement.

24. A person who obtains benefits under this Act by means of false declarations commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars or to imprisonment for a term not exceeding one year.

Benefits from false declaration.

25. A person who commits an offence against this Act for which no penalty is otherwise provided shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars and in default of payment, for a term of imprisonment not exceeding six months.

Breaches of this Act not otherwise provided for.

26.—(1) The Minister may, after consultation with the Board, make regulations for the proper administration of and giving effect to this Act and, without prejudice to the generality of the foregoing, may make regulations prescribing—

Regulations.

- (a) a national health insurance plan, benefit schedules or other schemes of insurance, arrangements or systems for Jamaica;
- (b) the health benefits to be administered by the Fund and the illnesses to be monitored by the Fund;
- (c) the records to be kept by persons liable to pay moneys under any levy or tax established by or pursuant to this Act;
- (d) the drugs and other benefits to be made available by the Fund, at government-owned and other health facilities;

(e) any other matter relevant to the operation of this Act.

**First
Schedule.**

(2) The Minister may from time to time, by order, amend the First Schedule.

(3) Regulations and any order made under this section shall be subject to affirmative resolution.

**Act binds the
Crown.**

27. This Act binds the Crown.

FIRST SCHEDULE

(Section 2)

Specified Diseases and Specified Medical Conditions

Arthritis
 Asthma
 Cancer of the breast
 Cancer of the prostate
 Diabetes
 Epilepsy
 Glaucoma
 High Cholesterol
 Hypertension
 Ischaemic Heart Disease
 Major Depression
 Psychosis
 Rheumatic Fever Heart Disease
 Vascular Disease

SECOND SCHEDULE

(Section 4)

The National Health Fund

1.—(1) The seal of the Fund shall be kept in the custody of the chairman or of any officer of the Fund authorized by the Board in that behalf, and shall be affixed to instruments pursuant to a resolution of the Board in the presence of the chairman or any other member duly authorized to act in that behalf, and the secretary.

Seal and execution of documents.

(2) The seal of the Fund shall be authenticated by the signature of the secretary or any other member of the Board duly authorized to act in that behalf.

2.—(1) Subject to sub-paragraph (2) the Fund shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit an Executive Director, a Secretary and such other officers and servants as it thinks necessary for the proper carrying out of the provisions of this Act.

Power to appoint officers, agents, etc.

(2) The Minister shall give prior approval to—

- (a) any salary in excess of the prescribed rate per annum assigned to any post;
- (b) any appointment made to any post to which a salary in excess of the prescribed rate is assigned,

- (c) payments under any pension scheme or for the payment of any gratuity or other like benefit to, or in respect of the service of, any officer or servant.

(3) In sub-paragraph (2), the prescribed rate means a rate of two million dollars or such higher rate as the Minister may, by order, prescribe.

Authentic-
ation of
documents.

3. All documents, other than those required by law to be under seal, made by, and all decisions of, the Fund may be signified under the hand of the chairman or any member of the Board authorized to act in that behalf or an officer of the Fund so authorized.

Expenses
of the Fund.

4. The expenses of the Fund (including the remuneration of the staff thereof and members of the Board) shall be defrayed out of the income of the Fund or from sums provided for the purpose by Parliament.

THIRD SCHEDULE

(Section 6)

The Board of Management of the Fund

Constitution
of Board.

1.—(1) The Board shall consist of such number of members not being less than seven nor more than nine as the Minister may from time to time appoint by instrument in writing.

(2) The Chief Executive Officer of the Fund shall be an *ex officio* member of the Board.

Chairman
and deputy
chairman.

2.—(1) The Minister shall appoint a chairman and a deputy chairman from among the members of the Board.

(2) In case of the absence or inability to act of the chairman, the deputy chairman shall exercise the functions of the chairman.

Term of
office.

3. A member of the Board shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years and each such member shall be eligible for re-appointment.

Acting
appoint-
ments.

4. The Minister may appoint any person to act in the place of any member of the Board in the case of the absence or inability to act of such member.

Resigna-
tion.

5.—(1) Any member of the Board other than the chairman may at any time resign his office by instrument in writing addressed to the chairman who shall forthwith cause it to be forwarded to the Minister and upon the date of the receipt by the Minister of such instrument the member shall cease to hold office.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument.

6. The Minister may at any time revoke the appointment of any member of the Board if he thinks it expedient so to do.

Revocation of appointments.

7. The names of all members of the Board as first constituted and every change in membership thereof shall be published in the *Gazette*.

Gazetting of appointments.

8.—(1) The Minister may, on the application of any member of the Board, grant leave of absence to such member.

Leave of absence.

(2) The appointment of a member referred to in paragraph 3 shall be regarded as terminated if, without the grant of leave of absence, that member is absent from three consecutive meetings of the Board.

9.—(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business (but at least six meetings shall be held within each financial year) and such meetings shall be held at such places and times and on such days as the Board may determine.

Procedure and meetings.

(2) The chairman may at any time call a special meeting to be held within seven days of a written request for the purpose addressed to him by any two members of the Board.

(3) The chairman shall preside at meetings of the Board and if the chairman and the deputy chairman are absent from a meeting, the members present shall elect one of their number to preside at that meeting.

(4) The quorum of the Board shall be five.

(5) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, the chairman or other member presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Board shall be kept.

(7) Subject to the provisions of this Schedule the Board may regulate its own proceedings.

10. A member of the Board who is directly or indirectly interested in any matter which is being dealt with by the Board—

Disclosure of interest.

(a) shall disclose the nature of his interest at a meeting of the Board; and

(b) shall not take part in any deliberation or decision of the Board with respect to that matter.

Appoint-
ment of
committee.

11.—(1) The Board shall appoint—

- (a) a medical Review Committee to monitor benefit schedules and illnesses to be covered by the Fund; and
- (b) an Operations Review Committee to monitor the operational and financial operations of the Fund and to recommend changes thereto, where necessary,

and may appoint such other committees as it thinks fit, consisting wholly or partly of members of the Board and may delegate to such committees such of the Board's functions as it thinks fit.

(2) A delegation under sub-paragraph (1) shall not prevent the exercise by the Board of any function so delegated.

Remunera-
tion of
members.

12. There shall be paid to the chairman and each member of the Board such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Protection
of office.

13. No act done or proceeding taken under this Act shall be questioned on the ground—

- (a) of the existence of any vacancy in the chairmanship of, or any defect in the constitution of, the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

Protection
of Board
members.

14.—(1) No action, suit or other proceeding of the Board shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in the course of carrying out the provisions of this Act.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Fund shall be liable to the extent that it would be if that member were an employee or agent of the Fund.

Office of
member other
than
chairman not
public office.

15. The office of a member of the Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

A BILL

ENTITLED

AN ACT to Amend the National Health Fund Act.

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:--

1. This Act may be cited as the National Health Fund (Amendment) Act, 2010 and shall be read and construed as one with the National Health Fund Act, hereinafter referred to as the principal Act.

Short title
and
construction

2. The principal Act is amended in the long title thereto, by inserting next after the word "Jamaica;" the words "to provide for the procurement, warehousing and distribution of pharmaceuticals and other medical supplies to government-owned health facilities;"

Amendment
of long title
of principal
Act

3. Section 3 of the principal Act is amended by—

Amendment
of section 3
of principal
Act.

- (a) relettering paragraphs (c), (d) and (e) as paragraphs (d), (e) and (f);

- (b) inserting next after paragraph (b) the following as paragraph (c)—

“(c) make pharmaceutical and medical supplies accessible and available to government-owned health facilities;”.

Amendment
of section 5
of principal
Act.

4. Section 5 of the principal Act is amended—

- (a) in paragraph (i), by deleting the word “and”;
- (b) by relettering paragraph (j) as paragraph (k);
- (c) by inserting next after paragraph (i) the following as paragraph (j)—

“(j) carrying on the businesses of chemists, druggists, manufacturers, importers and distributors of and dealers in all kinds of—

- (i) pharmaceutical, medical, chemical and other preparations, compounds and articles or things;
- (ii) medical and surgical supplies, utensils and implements;
- (iii) mechanical, electrical, electronic, sonic, radiographic, scopic and other equipment.

for use in government-owned health facilities;”.

Amendment
of section 9
of principal
Act.

5. Section 9 of the principal Act is amended—

- (a) in paragraph (f), by deleting the word “and”;
- (b) by relettering paragraph (g) as paragraph (h);
- (c) by inserting next after paragraph (f) the following as paragraph (g)—

“(g) moneys earned from carrying on any business mentioned in paragraph (j) of section 5;”.

Passed in the House of Representatives this 9th day of November, 2010

DELROY H. CHUCK
Speaker

MEMORANDUM OF OBJECTS AND REASONS

The Government has conducted structural reviews of the current system of procuring and distributing of medical and pharmaceutical supplies within the public health sector, with a view to strengthening these systems to make them more effective. This was done with the assistance of the Board and Management of Health Corporation Limited (HCL), the Board and Management of the National Health Fund (NHF), the Public Sector Modernization Division (PSMD), PriceWaterhouseCoopers, the Consultants to the PSMD and a Consultant engaged by the NHF. Based on the results of the reviews and in keeping with the current restructuring efforts, the decision was taken to integrate aspects of the operations of the HCL into the NHF.

Consequently, this Bill seeks to amend the National Health Fund Act in order to confer on the Fund the responsibility for the procurement, warehousing and distribution of pharmaceutical and other medical supplies to government-owned health facilities.

RUDYARD SPENCER
Minister of Health.

A BILL

ENTITLED

**AN ACT to Amend the National Health Fund
Act.**

As passed in the Honourable House of Representatives.

LONG TITLE OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

AN ACT to Provide for the introduction of a contributory health insurance system to be called the National Health Fund, for the benefit of all residents of Jamaica; and to provide further for the financing of the Fund and for connected matters.

SECTION 3 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

3. The principal objects of this Act are to—
- (a) provide prescribed health benefits to all residents, regardless of age, gender, health or economic status;
 - (b) provide greater access to medical treatment and preventative care for specified diseases and specified medical conditions;
 - (c) secure improvement in the productivity of residents by reducing time lost on the job that is attributable to personal and family health care problems;
 - (d) reduce the Island's disease burden through health promotion and protection programmes; and
 - (e) provide support to health services and promote and encourage the utilization of primary health care to improve the quality of life of the Island's population.

SECTION 5 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

5. The Fund shall perform such functions as may be necessary to give effect to the objects specified in section 3 and, without prejudice to the generality of the foregoing, such functions shall include—

- (a) implementing a national health insurance plan or such other schemes of insurance, contractual or other arrangements or systems;
- (b) administering and controlling the moneys received from—
 - (i) the Consolidated Fund and assigned by Parliament for the purpose;
 - (ii) the Special Consumption Tax for the purposes of this Act; and
 - (iii) any other sources in accordance with the provisions of this Act;

- (c) utilizing the revenues received by the Fund to achieve the objects of the Act;
- (d) providing health benefits for residents with specified diseases and specified medical conditions;
- (e) making prescribed drugs and other benefits available to residents at government-owned and other health facilities;
- (f) arranging and providing mechanisms for the utilization of benefits under the Fund;
- (g) enhancing the usefulness of the Fund by promoting improved methods and levels of efficiency in the delivery of health care;
- (h) investing the moneys of the Fund;
- (i) entering into agreements with other persons for the better administration of the Fund; and
- (j) doing or causing to be done such other things as are necessary or expedient for or in connection with the proper performance of the functions of the Fund.

SECTION 9 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

PART III. *Financial Provisions*

- 9.—(1) The financial resources of the Fund shall consist of—
- (a) such moneys as may from time to time be placed at its disposal for the purposes of this Act by Parliament;
 - (b) any moneys payable to the Fund from any levy or tax, as the case may be, on tobacco and tobacco products authorized under this or any other Act;
 - (c) 5% of the amount collected by way of Special Consumption Tax or such other percentage as may be specified by the Minister responsible for finance, subject to affirmative resolution of the House of Representatives;
 - (d) moneys received from the National Insurance Fund;
 - (e) moneys received from loans or otherwise;
 - (f) moneys earned by or arising from investments made by or on behalf of the Fund; and
 - (g) such other moneys as may lawfully be paid to the Fund.
- (2) All moneys received or amount collected under subsection (1)(b), (c) and (d) shall be paid forthwith and directly to the Fund.