

**THE NATIONAL HEALTH INSURANCE ACT
2018**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

1. Short title and Commencement
2. Interpretation
3. Application and power of exemption

PART II

THE NATIONAL HEALTH INSURANCE MANAGEMENT AUTHORITY

4. Establishment of National Health Insurance Management Authority
5. Functions of Authority
6. Board of Authority
7. Functions of Board
8. Committees
9. Delegation of functions
10. Director-General and other staff of Authority
11. Provincial and district offices of Authority

PART III

NATIONAL HEALTH INSURANCE SCHEME, COVERAGE AND BENEFITS

12. Establishment of National Health Insurance Scheme
13. Membership and registration
14. Possession of health insurance by foreigners
15. Contributions and payment mechanisms
16. Persons exempt from contributions
17. Standard unit cost
18. Negotiated fees, charges and payment mechanisms
19. Scheme membership card
20. Benefits of member's contribution
21. Death of member
22. Suspension of benefits
23. Information on change of membership status
24. Portability
25. Material modifications

PART IV

ACCREDITATION OF HEALTH CARE PROVIDERS

26. Prohibition of provision of insured health care services without accreditation
27. Application for accreditation to provide insured health care services
28. Grant or rejection of application for accreditation
29. Dispensing with accreditation
30. Suspension or revocation of accreditation
31. Publication of accredited health care providers
32. Reporting requirements for accredited health care providers
33. Payment for insured health care services
34. Confidential patient record system and provider payment system
35. Member's enrolment with accredited health care provider
36. Duty to provide insured health care services

PART V

QUALITY ASSURANCE

37. Compliance with quality standards
38. Quality assurance
39. Contracts and monitoring mechanisms
40. Inspections

PART VI

NATIONAL HEALTH INSURANCE FUND

41. Establishment of National Health Insurance Fund
42. Administration and management of Fund
43. Fund accounts and disbursement
44. Annual report

PART VII

FINANCIAL PROVISIONS

45. Funds of Authority
46. Financial year
47. Accounts and audit
48. Annual report

PART VIII

GENERAL PROVISIONS

49. Health Complaints Committee and appeals
50. Appeals
51. Immunity from execution of judgements
52. Registers
53. General offences
54. Fine in lieu of prosecution
55. Offences by body corporate
56. General penalty
57. Regulations

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 2 of 2018

Date of Assent: 9th April, 2018

An Act to provide for sound financing for the national health system; provide for a universal access to quality insured health care services; establish the National Health Insurance Management Authority and provide for its functions and powers; establish the National Health Insurance Scheme and provide for its systems, procedures and operation; establish the National Health Insurance Fund and provide for contributions to and payments from the Fund; provide for accreditation criteria and conditions in respect of insured health care services; provide for complaints and appeals processes; provide for the progressive establishment of provincial and district health offices of the Authority; and provide for matters connected with, or incidental to, the foregoing.

[11th April, 2018

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the National Health Insurance Act, 2018, and shall come into operation on the date appointed by the Minister by statutory instrument.

Short title and Commencement

2. In this Act, unless the context otherwise requires—

Interpretation

“ accreditation ” means the process of recognition of a health care provider as one that is allowed to provide insured health care services for the purposes of this Act;

“ accredited health care provider ” means a health care provider that is accredited by the Authority under section 28;

“ actuarial assessment ” means the periodic valuation of a Scheme, made in accordance with actuarial methods;

- “ admission ” means a procedure where a person is accommodated overnight or for such other prescribed period by a health care provider for the purposes of receiving necessary in-patient services and “ admitted ” and cognate expressions shall be construed accordingly;
- “ Authority ” means the National Health Insurance Management Authority established under section 4;
- Act No. 7 of 2017 “ bank ” has the meaning assigned to the word in the Banking and Financial Services Act, 2017;
- “ benefit ” means a direct insured health care service in the form of treatment or an indirect insured health care service consisting of a reimbursement of the expenses borne by a member and provided by an accredited health care provider and may include authorised tertiary health care services or a cash benefit;
- “ benefit package ” means the benefits a member is entitled to under the Scheme;
- “ billing ” means making a claim by an accredited health care provider for insured health care service expenses;
- “ Board ” means the Board of the Authority constituted under section 6;
- Cap. 268 “ casual employee ” has the meaning assigned to the words in the Employment Act;
- “ Chairperson ” means the Chairperson of the Board, appointed under section 6;
- Cap. 1 “ child ” has the meaning assigned to the word in the Constitution;
- Cap. 1 “ citizen ” has the meaning assigned to the word in the Constitution;
- “ committee ” means a committee of the Board constituted under section 8;
- Act No. 24 of 2009 “ Council ” means the Health Professions Council established under the Health Professions Act, 2009;
- “ dependant ” means a person, who resides with a member, and relies on the member’s income for survival;
- “ emergency medical condition ” means the sudden, and at the time unexpected onset of a health condition that requires immediate medical or surgical treatment, where failure to provide medical or surgical treatment would result in serious impairment to bodily functions or serious dysfunction of a body organ or part or would place the person’s life in serious jeopardy;

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- “ employee ” has the meaning assigned to the word in the Employment Act; Cap. 268
- “ employer ” has the meaning assigned to the word in the Employment Act; Cap. 268
- “ established resident ” has the meaning assigned to the word in the Immigration and Deportation Act, 2010; Act No. 18 of 2010
- “ family member ” means a registered child, spouse and dependant of a member;
- “ Fund ” means the National Health Insurance Fund established under section 41;
- “ health care expense ” means an amount payable in respect of an insured health care service provided to a member by an accredited health care provider;
- “ health care provider ” includes an institution or agency that provides health care services;
- “ health care service ” has the meaning assigned to the word in the Health Professions Act, 2009; Act No. 24 of 2009
- “ health insurance number ” means an identification number, assigned to a member by the Authority and stated on a member’s membership card;
- “ health practitioner ” has the meaning assigned to the words in the Health Professions Act, 2009; Act No. 24 of 2009
- “ inpatient service ” means a health care service provided by a patient who is admitted overnight by a health care provider;
- “ inspector ” means a person appointed as an inspector under section 40;
- “ insured health care service ” means a health care service available under the Scheme;
- “ medical doctor ” means a health practitioner registered as such under the Health Professions Act, 2009; Act No. 24 of 2009
- “ member ” means a member of the Scheme as provided under section 13;
- “ member contribution ” means such amount as may be prescribed for purposes of section 15;
- “ membership card ” means a card issued to a person registered under the Scheme;
- “ out patient service ” means a health care service or procedure provided by a health care provider to a patient who is not admitted by a health care provider;

“patient” means a member who is receiving or has received treatment from an accredited health care provider;

“pension scheme” means a pension scheme established under any other law;

“private health insurer” means a company that provides health insurance;

“provider payment system” means the manner of payment to a health care provider for delivery of health services to members;

“Scheme” means the National Health Insurance Scheme established under section 12;

“treatment” means medical, surgical, obstetric or dental treatment or such other medical treatment as may be prescribed; and

“Vice-Chairperson means the Vice-Chairperson of the Board elected under section 6.

Application
and power
of exemption

3. (1) The provisions of this Act shall bind the Republic.
- (2) The Minister may prescribe health care services that are not covered by the Scheme.
- (3) The Minister, by statutory instrument, may extend the categories of individuals to whom this Act applies.

PART II

THE NATIONAL HEALTH INSURANCE MANAGEMENT AUTHORITY

Establishment
of
National
Health
Insurance
Management
Authority

4. (1) There is established the National Health Insurance Management Authority which is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all acts and things that a body corporate may, by law, do or perform.

(2) The Schedule applies to the Authority.

Functions of
Authority

5. The functions of the Authority are to—
 - (a) implement, operate and manage the Scheme;
 - (b) manage the Fund;
 - (c) accredit health insurance healthcare providers;
 - (d) develop a comprehensive benefit package to be accessed by members;
 - (e) register and issue membership cards to members;
 - (f) facilitate—
 - (i) access by poor and vulnerable people to insured health care services; and
 - (ii) protection of the poor and vulnerable against deprivation of health services;

- (g) receive, process and pay claims for services rendered by accredited health care providers;
- (h) undertake public education and awareness programmes on health insurance;
- (i) undertake research in health insurance to inform policy formulation and implementation;
- (j) advise the Minister on health insurance and health insurance policy formulation;
- (k) undertake programmes that further the sustainability of the Scheme;
- (l) develop guidelines, processes and manuals for the effective implementation and management of the Scheme;
- (m) ensure that an accredited health care provider delivers efficient and quality insured health care services;
- (n) monitor and ensure compliance with this Act and guidelines, policies, processes and manuals made by the Authority in the performance of its functions under this Act;
- (o) undertake, in collaboration with relevant regulatory agencies, inspection of health facilities operated by accredited health care providers;
- (p) receive, investigate and determine complaints by members and accredited health care providers in accordance with section 49;
- (q) collaborate with corresponding health insurance management authorities in other countries;
- (r) develop, in consultation with relevant stakeholders, modalities of financing the coverage of indigent people under the Scheme;
- (s) cause the undertaking of actuarial valuations of the Scheme at prescribed intervals;
- (t) establish and maintain a register of members and accredited health care providers; and
- (u) do other things that are connected with, or incidental to, the functions of the Authority under this Act.

Board of
Authority

6. (1) There is constituted a Board of the Authority which consists of the following part-time members appointed by the Minister:

- (a) a representative each of the—
 - (i) Attorney General;
 - (ii) Health Professions Council of Zambia;
 - (iii) Ministry responsible for social services;

- (iv) Ministry responsible for health;
 - (v) Ministry responsible for finance;
 - (vi) Ministry responsible for labour;
 - (vii) associations for employees in the public sector;
 - (viii) associations for employees in the private sector;
 - (ix) associations for employers in the public sector;
 - (x) associations for employers in the private sector;
 - (xi) associations for religious groupings in Zambia;
 - (xii) Zambia Institute of Chartered Accountants; and
- (b) two other persons, one of whom has experience in health insurance.

(2) The members of the Board referred to in subsection (1) (a) shall be nominated by their respective institutions.

(3) The Minister shall appoint the Chairperson from among the members of the Board.

(4) The members of the Board shall elect the Vice-Chairperson from among their number.

(5) A person shall not be nominated or appointed as a member of the Board if that person—

- (a) is an undischarged bankrupt;
- (b) has a mental disability that renders that person incapable of performing the functions of a member of the Board;
- (c) has been convicted of an offence involving fraud or dishonesty;
- (d) has been convicted of an offence under any law and sentenced to imprisonment for a period exceeding six months without the option of a fine; or
- (e) is an employee of the Authority.

(6) The Schedule applies to the Board.

Functions of Board 7. Subject to the provisions of this Act, the functions of the Board are to—

- (a) review the policy and strategic plan of the Authority;
- (b) provide strategic direction to the Authority, oversee the implementation and successful operation of the policy and functions of the Authority;
- (c) approve the annual plans and budget of the Authority;
- (d) monitor and evaluate the performance of the Authority against the plans and budget;
- (e) approve the acquisition of property, movable and immovable, which may be necessary or expedient for the attainment of the purposes of this Act; and

(f) approve the business plans of the Authority.

8. (1) The Board may constitute committees that it considers necessary and delegate any of its functions to these committees. Committees

(2) The Board may appoint as members of a committee, persons who are, or are not members of the Board, except that at least one member of a committee shall be a member of the Board.

(3) A person serving as a member of a committee shall hold office for such period as the Board may determine.

(4) Subject to any specific or general direction of the Board, a committee may regulate its own procedure.

9. The Board may, by direction in writing, and subject to the terms and conditions that it considers necessary, delegate to the Director-General, any of its functions under this Act. Delegation of functions

10. (1) The Board shall, appoint a Director-General on the terms and conditions that the Emoluments Commission may determine. Director-General and other staff of Authority

(2) The Director-General shall be the chief executive officer of the Authority and shall, subject to the control of the Board, be responsible for the day-to-day administration of the Authority.

(3) A person shall not be appointed as Director-General unless that person has relevant qualifications or management experience in health economics, health care financing, medical care, health care, insurance or actuarial assessments and evaluations.

(4) The Director-General may attend meetings of the Board and of any committee and may address such meetings, but shall have no vote.

(5) The Board shall appoint a Board Secretary on the terms and conditions that the Emoluments Commission may determine.

(6) The Board may, whenever the Director-General is for any reason unable to discharge the functions of the Director-General's office, appoint an Acting Director-General to discharge the Director-General's functions.

(7) The Board may appoint, on the terms and conditions that the Emoluments Commission may determine, other staff of the Authority that it considers necessary for the performance of its functions under this Act.

11. The Authority shall, with approval of the Board, progressively establish and maintain provincial and district offices of the Authority. Provincial and district offices of Authority

PART III

NATIONAL HEALTH INSURANCE SCHEME, COVERAGE AND BENEFITS

- Establishment of National Health Insurance Scheme**
- 12.** (1) There is established the National Health Insurance Scheme into which shall be paid all contributions authorised under this Act and out of which shall be met all payments authorised to be paid under this Act.
- (2) The objective of the Scheme is to provide universal access to quality insured health care services in accordance with this Act.
- Membership and registration**
- 13.** (1) A citizen or established resident who is above eighteen years shall be registered as a member of the Scheme in the prescribed manner and form.
- (2) The Minister may prescribe conditions and procedures under which a person who is not eligible to become a member of the Scheme under the Act may access insured health care services.
- (3) Subject to subsections (1) and (2), an employer shall register an employee with the Authority within thirty days of the commencement date of the contract of employment in the prescribed manner and form.
- (4) A manager of a pension scheme shall ensure that a retiree is registered by the Authority in accordance with this Act.
- (5) A self-employed citizen and established resident shall register as a member of the Scheme in accordance with this Act.
- (6) The Authority shall, in accordance with subsection (1), register a person as a member of the Scheme and issue a membership card in accordance with section 19.
- Possession of health insurance by foreigners**
- 14.** (1) A foreigner who enters the Republic shall have valid health insurance for the period that the foreigner stays in the Republic.
- (2) A foreigner who enters the Republic without valid health insurance shall register and pay for health insurance with a health insurer on arrival in the Republic, in the prescribed manner and form.
- Contributions and payment mechanisms**
- 15.** (1) An employer shall pay to the Scheme an employee's contribution consisting of the employer's contribution and the employee's contribution at a prescribed percentage.
- (2) The employer shall pay contributions to the Scheme at the end of each month.

(3) A manager of a pension scheme shall pay to the Scheme a retiree's contribution, as prescribed.

(4) A self-employed citizen or established resident shall pay a contribution to the scheme, as prescribed.

(5) The Minister shall, in consultation with the Authority, prescribe rates of contribution for different benefit packages and payment mechanisms available to the member.

16. A citizen or established resident that may be exempted from payment of contributions under the Scheme include—

Persons exempt from contributions

- (a) a mentally or physically disabled person who is unable to work;
- (b) an elderly person above the age of 65;
- (c) a person classified as poor and vulnerable by the Ministry responsible for social welfare; and
- (e) any other person as may be prescribed by the Minister.

17. The Authority shall for each year establish and update a uniform national standard schedule of the fees and charges for items and services provided by accredited health care providers.

Standard unit cost

18. (1) The Authority shall negotiate with accredited health care providers, a schedule of fees and charges for insured health care services that are fair and optimal.

Negotiated fees, charges and payment mechanisms

(2) In negotiating a schedule of fees and charges, under subsection (1), the Authority shall take into consideration the—

- (a) need for a uniform national standard of fees and charges;
- (b) objective of ensuring that accredited health care providers are compensated at a rate which reflects their health practitioner's expertise and the value of their service, regardless of geographic region and past fees and charges;
- (c) need to establish a prescription drug formulary system, including medical interventions, which encourages best-practices in prescribing and discourages the use of ineffective, dangerous, or excessively costly medications where better alternatives are available; and
- (d) need to use generic medications where such are available while allowing the use of brand-names and off-formulary medications as prescribed in the benefit package.

19. (1) The Authority shall, on registration of a member, issue a membership card as prescribed.

Scheme membership card

	<p>(2) Where a membership card is lost or defaced or otherwise destroyed, the Authority shall replace the membership card on payment of a prescribed fee.</p> <p>(3) The issuance of the membership card shall be accompanied by adequate information on the benefits, rights and privileges of the member, including the list of accredited health care providers.</p>
Benefits of member's contribution	<p>20. (1) A member and a family member shall access the benefits package under the Scheme as prescribed.</p> <p>(2) Subject to this Act, insured health care services, in whole or in part, shall be provided at national, provincial and district levels, as prescribed.</p>
Death of member	<p>21. (1) Membership to the Scheme shall cease on the death of a member.</p> <p>(2) A family member is entitled to continued benefits for a period of four months following the death of the member.</p> <p>(3) The mechanisms for the continuation of benefits of a family member after the period referred to in subsection (2) shall be as prescribed.</p>
Suspension of benefits	<p>22. (1) The benefits of a member other than a member whose contribution is paid in accordance with section 15 (1), (2) and (3) under the Scheme may be suspended where a contribution in respect of that member is not paid to the Scheme.</p> <p>(2) The Authority shall suspend a member where that member presents a false claim, makes material misrepresentation or fails to disclose factual information required for the purposes of the Act.</p> <p>(3) The period of suspension shall be for a month during which the amount remains unpaid or such longer period.</p> <p>(4) The provisions of this section are without prejudice to any other remedy available to the Authority.</p>
Information on change of membership status	<p>23. (1) A member shall provide to the Authority updated information in case of—</p> <p>(a) an employment status shift resulting from change of employment, termination of employment, or retirement;</p> <p>(b) modification of the family membership resulting from the death of a member, birth of a child, or arrival or departure of a family member;</p>

- (c) modification of financial status;
- (d) geographic relocation; and
- (e) any other change that impacts membership status.

(2) A member shall provide an update under subsection (1), within a month after the change occurs.

(3) Despite subsection (2), updated information in case of death shall be provided as soon as practicable but not later than four months.

24. (1) A member may access an insured health care service offered by an accredited health care provider anywhere within the Republic.

Portability

(2) The Authority shall develop and enforce mechanisms and procedures which shall ensure benefits are portable across the areas of work within the Republic.

25. The Authority shall, where there is any material modification in any benefit package or coverage that is not reflected in the most recently provided summary of benefits or coverage, provide notice of that modification to a member, not later than sixty days prior to the date on which the modification is to come into operation.

Material modifications

PART IV

ACCREDITATION OF HEALTH CARE PROVIDERS

26. (1) A health care provider shall not provide a health care service under the Scheme to a member if that health care provider is not accredited in accordance with this Act.

Prohibition of provision of insured health care services without accreditation

(2) The Authority shall not pay for an insured health care service provided by a health care provider that is not accredited.

(3) Despite subsection (2), a health care provider that is not accredited in accordance with this Act may provide an insured health care service to a member in case of an emergency where an accredited health care provider is not immediately accessible or under the circumstances of the case it is not practicable to the member to attend before an accredited health care provider.

(4) The Authority shall pay for an insured health care service provided under subsection (3) by a health care provider that is not accredited in accordance with this Act.

Application
for
accreditation
to provide
insured
health care
services

27. (1) A health care provider that wishes to provide an insured health care service to a member shall apply to the Authority for accreditation in the prescribed manner and form on payment of a prescribed fee.

(2) The Authority shall, on receipt of an application made under subsection (1), cause to be undertaken an assessment of the application in order to determine whether the applicant meets the requirements for accreditation, as prescribed.

Grant or
rejection of
application
for
accreditation

28. (1) The Authority shall, within ninety days of receipt of an application for accreditation, under section 27—

(a) grant accreditation where the applicant meets the requirements; or

(b) reject the application where the applicant does not meet the requirements.

(2) The Authority shall, where it rejects an application in accordance with subsection (1) (b), inform the applicant of the reasons for the rejection.

(3) Where the Authority does not make a determination or communicate its decision on an application within the period specified in subsection (1), accreditation shall be considered to have been granted.

Dispensing
with
accreditation

29. (1) An accredited health care provider that is wound up or decides to dispense with accreditation shall within sixty days of such winding up or dispensing with accreditation notify the Authority, in writing, of the decision and surrender the accreditation.

(2) The Authority shall cancel an accreditation surrendered in accordance with subsection (1), subject to the conditions that the Authority may impose in the interest of the member enrolled with the accredited health care provider.

(3) A health care provider that dispenses with that provider's accreditation shall, within thirty days of the Authority's direction to do so, transfer the medical records of members in that provider's possession to the Authority.

(4) The Authority shall, before directing a health care provider to transfer medical records in accordance with subsection (3), consult the affected members on the alternative accredited health care providers that the members may wish to be enrolled with.

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- 30.** (1) The Authority may suspend or revoke a health care provider's accreditation if that accredited health care provider—
- Suspension
or revocation
of
accreditation
- (a) obtained the accreditation by fraud or submission of false information or statements;
 - (b) does not comply with a term or condition of the accreditation; or
 - (c) operates in contravention of this Act or any other law relating to the provision of a health care service.
- (2) The Authority shall, before suspending or revoking a health care provider's accreditation in accordance with subsection (1), notify the health care provider of the intention to suspend or revoke the accreditation and shall—
- (a) give reasons for the intended suspension or revocation; and
 - (b) require the health care provider to—
 - (i) show cause, within such reasonable period as the Authority may specify in the notice, why the accreditation should not be suspended or revoked; or
 - (ii) remedy the default.
- (3) The Authority shall not suspend or revoke a health care provider's accreditation if the health care provider takes remedial measures to the satisfaction of the Authority within the period specified in accordance with subsection (2).
- (4) The Authority shall, in making the final determination on the suspension or revocation of a health care provider's accreditation consider the remedial measures made by the health care provider in accordance with subsection (3).
- (5) The Authority shall, where a health care provider's accreditation is suspended or revoked in accordance with this section, publish the suspension or revocation, as the case may be, in a daily newspaper of general circulation in the Republic.
- (6) The revocation of a health care provider's accreditation in accordance with this section does not affect any liability incurred by the health care provider before the revocation, and any legal proceedings commenced or continued against the health care provider before the revocation may be continued against that health care provider.
- (7) A health care provider whose accreditation is suspended or revoked shall, within thirty days of the Authority's direction to do so, transfer the medical records of members in its possession to an accredited health care provider that the Authority may direct.

(8) The Authority shall, before directing a health care provider to transfer medical records in accordance with subsection (7), consult the affected members on the alternative accredited health care providers they wish to be enrolled with.

Publication of accredited health care providers

31. The Authority shall publish annually in the *Gazette* and a daily newspaper of general circulation in the Republic the names of accredited health care providers.

Reporting requirements for accredited health care providers

32. (1) The Minister shall, in consultation with relevant stakeholders, prescribe the reporting requirements for accredited health care providers in respect of insured health care services provided by the accredited health care providers, including the periods for reporting the following:

- (a) statistical data on members enrolled with the health care provider;
- (b) the insured health care services provided during the reporting period and the conditions under which the services were provided;
- (c) the number and skills of staff of the health care provider;
- (d) the type and state of equipment and infrastructure of the health care provider;
- (e) the inventory of medicines including stock levels available;
- (f) the relationship with other accredited health care providers and the details thereof; and
- (g) such other administrative, financial or medical information relevant to the provision of quality insured health care services.

(2) The Authority may request, from an accredited health care provider, information and documents, including medical records and explanations, which are in the possession of the health care provider, relating to the provision of insured health care services and that health care provider shall disclose the information or submit the documents to the Authority.

(3) An accredited health care provider that fails to comply with this section commits an offence.

Payment for insured health care services

33. An accredited health care provider that provides a health care service to a member, shall submit a claim in the prescribed manner and form.

(2) The Authority shall process a claim for payment in respect of insured health care services rendered by an accredited health care provider within such period as the Authority may agree on with the accredited health care provider.

(3) An accredited health care provider that receives payment from the Fund shall not bill a member directly for any insured health care service.

34. (1) An accredited health care provider shall, implement a standardised and confidential patient record system to maintain accurate patient records and simplify the provider payment system as prescribed by the Minister, in consultation with the Authority.

Confidential patient record system and provider payment system

(2) A member shall, on request, submit to the Authority, an employer, an accredited health care provider or any other authorised person information required for the better carrying out of the provisions of this Act.

(3) A person who receives information under this section, in the course of that person's functions under this Act, shall keep such information confidential and shall not disclose or make use of the information, except as authorised by law.

(4) An accredited health care provider shall implement a prescribed provider payment system.

(5) A person who contravenes subsection (4) commits an offence and is liable, on conviction to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

35. The Minister may prescribe the processes and procedures for enrolment, or removal of a member from an accredited health care provider.

Member's enrolment with accredited health care provider

36. An accredited health care provider shall provide to a member, the insured health care services specified in the benefits package.

Duty to provide insured health care services

PART V

QUALITY ASSURANCE

37. (1) An accredited health care provider shall comply with national quality assurance systems set by the Authority or other relevant regulatory agencies.

Compliance with quality standards

(2) The Authority shall liaise with appropriate authorities to ensure that national quality assurance systems developed by regulatory agencies are relevant to current developments in the provision of national health insurance and have a positive impact on the delivery of health care services.

- Quality assurance
- 38.** (1) An accredited health care provider shall take part in programmes for quality assurance and performance review to ensure that they provide quality health care services.
- (2) An accredited health care provider shall appoint persons, on their personnel establishment, whose responsibility is to—
- (a) ensure quality and cost effective health care service delivery in conformity with national standards;
 - (b) manage the patient record system; and
 - (c) ensure accurate and expedient, submission of claims in accordance with prescribed procedures.
- Contracts and monitoring mechanisms
- 39.** (1) The Authority shall enter into a contract with each accredited health care provider for provision of insured health care services under the Scheme.
- (2) The Authority and accredited health care provider shall ensure that monitoring mechanisms are put in place to safeguard against—
- (a) overutilisation of insured health care services;
 - (b) underutilisation of insured health care services;
 - (c) unnecessary diagnostic and therapeutic procedures and interventions;
 - (d) irrational and inappropriate prescription of medicines;
 - (e) inappropriate referral practices;
 - (f) inappropriate or unnecessary healthcare service being continued as part of insured health care services;
 - (g) fraud; and
 - (h) any other circumstances that are likely to arise.
- Inspections
- 40.** (1) The Authority shall, in consultation with the Council, and the Registrar responsible for Pensions and Insurance, appoint inspectors for purposes of this Act.
- (2) An inspector may, at all reasonable times, enter and inspect any premises, which is being used by an accredited health care provider to ensure compliance with this Act and regulations issued under this Act.
- (3) An inspector shall, on entering the premises of an accredited health care provider, present that inspectors' identity card to a person in charge.
- (4) An inspector may inspect a patient's records, treatment, diagnosis and fees sheet to ascertain the validity of any billing, except that an inspector shall, in so doing, pay particular regard to ethical procedures, privacy and confidentiality.

- (5) A person shall not—
- (a) delay or obstruct an inspector in the performance of the inspectors' functions;
 - (b) refuse to give an inspector such reasonable assistance as the inspector may require for the purpose of executing the inspectors' duties and powers under this Act; or
 - (c) give an inspector false or misleading information in answer to an inquiry made by the inspector.

(6) A person who contravenes subsection (4), commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment for a term not exceeding two years, or to both.

(7) An inspector shall submit to the Authority a written report relating to an inspection conducted under this Act.

(8) Where the Authority receives a report, submitted under subsection (5), indicating that the accredited health care provider is not complying with a provision of this Act, the Authority shall serve the accredited health care provider with a written notice specifying the violation and stating that the Board may suspend or revoke the accreditation of the health care provider if the counteracting responses do not offer sufficient grounds exculpating the accredited health care provider.

PART VI

NATIONAL HEALTH INSURANCE FUND

41. (1) There is established the National Health Insurance Fund for the purpose of the Scheme.

Establishment
of
National
Health
Insurance
Fund

(2) Despite the generality of subsection (1), the Fund shall be held and applied for the purposes of—

- (a) paying for the cost of insured health care services accessed by members of the Scheme;
- (b) paying administrative and management expenses; and
- (c) programmes for the promotion of access to insured health care services that the Minister may, in consultation with the Authority, determine.

(3) The Fund shall consist of—

- (a) contributions paid into the Fund in accordance with this Act;
- (b) monies as may be appropriated by Parliament for the purpose of the Scheme;

- (c) monies as may be paid to the Fund by way of loans, grants or donations;
- (d) such monies as may, by or under any other law, be payable to the Fund;
- (e) interest arising out of any investment of the Fund; and
- (f) such other monies as may vest or accrue to the Fund.

- (4) Subject to the approval of the Minister, the Authority may—
- (a) accept monies by way of grants or donations from a source within or outside Zambia;
 - (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions; and
 - (c) charge and collect fees for services provided by the Authority.

(5) The Authority shall not, in any year, expend on activities or programmes referred to in subsection 2(b) and (c) more than a prescribed percentage of the monies held by the Fund in that year.

Administra-
tion and
management
of Fund

42. (1) The Authority shall administer and manage the Fund for the purposes specified in section 41(2).

(2) The Authority may invest any monies of the Fund that are not immediately required for the purposes of the Fund in the manner authorised by the Board.

(3) The Authority shall ensure that prudent controls are established for the Fund relating to—

- (a) fiscal controls and accounting procedures governing the Fund;
- (b) actuarial correctness of the Fund;
- (c) reporting procedures for matters relating to the Fund; and
- (d) investment of the monies of the Fund.

(4) The Authority shall cause to be kept proper books of accounts and other records relating to the accounts of the Fund.

Fund
accounts and
disbursement

43. (1) The Authority shall, for purposes of the Fund, operate an account in respect of the Scheme at a bank as the Board may determine.

(2) Monies paid into the Fund for the purpose of the Scheme shall be deposited in the Fund account designated for the Scheme.

(3) The Authority shall not disburse from a Fund account monies to be applied for the purposes of a Scheme other than the Scheme in respect of which the Fund account is operated.

- 44.** (1) As soon as practicable, but not later than ninety days after end of the financial year, the Authority shall submit to the Minister a report concerning the activities relating to the Fund during the financial year. Annual report
- (2) The report referred to in subsection (1) shall include information on the financial affairs relating to the Fund and there shall be appended to the report—
- (a) an audited statement of financial position;
 - (b) an audited statement of comprehensive income; and
 - (c) such other information as the Minister may require.
- (3) The Fund shall be audited by the Auditor-General or an auditor appointed by the Board and approved by the Auditor-General.
- (4) The Board may order any other audit in addition to the annual audit specified under subsection (3).
- (5) The Minister shall cause to be prepared an annual statement of the income and expenditure of the Authority to be laid before the National Assembly.

PART VII

FINANCIAL PROVISIONS

- 45.** (1) The funds of the Authority shall consist of such monies as may— Funds of Authority
- (a) be appropriated to the Authority by Parliament for the purposes of the Authority;
 - (b) be paid to the Authority by way of fees, loans, grants or donations; and
 - (c) otherwise vest in or accrue to the Authority.
- (2) The Authority may, subject to the approval of the Minister—
- (a) accept monies by way of grants or donations from any source within or outside the Republic; and
 - (b) raise by way of loans or otherwise, such monies as it may require for the discharge of its functions.
- (3) There shall be paid from the funds of the Authority—
- (a) the emoluments of the Members and staff of the Authority;
 - (b) such traveling and other allowances for the members of the Board, members of committees of the Board and staff of the Authority when engaged on the business of the Authority at such rates as the members of the Board may approve; and

- (c) any other expenses incurred by the Authority in the performance of its functions under this Act.
- (4) The Authority may, with the approval of the Board, invest in a manner that it considers appropriate such of its funds as it does not immediately require for the discharge of its functions.
- 46.** The financial year of the Authority shall be the period of twelve months ending on 31st December in each year.
- 47.** (1) The Authority shall cause to be kept proper books of account and other records relating to its accounts.
- (2) The accounts of the Authority shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The auditor's fees shall be paid by the Authority.
- 48.** (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Authority shall submit to the Minister a report concerning the Authority's activities during the financial year.
- (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—
- (a) an audited statement of financial position;
- (b) an audited statement of comprehensive income; and
- (c) such other information as the Minister may require.
- (3) The Minister shall cause to be prepared an annual statement of the income and expenditure of the Authority to be laid before the National Assembly.

PART VIII

GENERAL PROVISIONS

- 49.** (1) There is constituted the Health Complaints Committee of the Board.
- (2) The Board shall appoint persons as members of the Committee who have experience in health, legal or financial matters.
- (3) The Committee shall—
- (a) hear and resolve complaints that may be submitted to the Authority by members, accredited health care providers and members of the health profession;
- (b) hear and determine matters relating to accredited health care providers; and

(c) perform any other functions relating to the management of the welfare of members as may be determined by the Board.

(4) The Authority shall develop an awareness process to ensure that members and accredited health care providers are aware of their right to lodge complaints to the Committee where there is failure to settle a complaint internally.

(5) A person aggrieved with a decision of the Committee may, within thirty days of receiving the decision, appeal to the Board.

50. A person who is aggrieved by a decision of the Board may appeal to the High Court. Appeals

51. Where a judgment order is obtained against the Authority, execution, attachment or process of any nature shall not be issued against the Authority or against any property of the Authority, but the Authority shall cause to be paid out of its revenues an amount that may, by the judgment or order, be awarded against the Authority to the person entitled to that amount. Immunity from execution of judgments

52. (1) The Authority shall establish and maintain a register in the prescribed manner and form of— Registers

(a) members;

(b) employers, pensions schemes and self employed citizens or established residents; and

(c) accredited health care providers.

(2) An accredited health care provider shall establish and maintain a register of members enrolled with that provider.

53. (1) A person shall not— General offences

(a) make a false statement or representation in connection with registration for membership;

(b) obtain or procure a prescribed health care service by knowingly making a false or fraudulent statement or uttering a false document;

(c) make a claim for payment in respect of prescribed health care services that the person has not rendered;

(d) fail to pay to the Scheme within the period specified any contribution which the person is liable to pay under the Act;

(e) where required to pay contributions to the Scheme, evade payment of a contribution;

- (f) when required to register as a member or to ensure the registration of another person as a member, fail to do so within the period specified by or under this Act;
- (g) when required by or under this Act to furnish any information, without lawful excuse, fail or refuse to furnish that information;
- (h) obstruct any officer of the Authority in the discharge of the officer's duties; or
- (i) without lawful excuse, fail to produce documents which the person is required by or under this Act to produce.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or imprisonment to a term not exceeding two years or to both.

Fine in lieu
of
prosecution

54. (1) Where a person commits an offence under this Act agrees to pay a specified fine proposed by the Authority which does not exceed the maximum penalty provided by this Act for the offence in question, the Authority may impose that fine on that person, except that where criminal proceedings have been instituted against that person for the offence, the power conferred by this subsection shall not be exercised without the written consent of the Director of Public Prosecutions.

(2) The Authority shall furnish the person with a certificate setting out the nature of the offence, the date of its occurrence, and the fine imposed under subsection (1), and such certificate may be used by that person as prima facie proof of the facts stated in the certificate.

(3) Where a fine imposed in terms of subsection (1) is not paid on demand, the Authority may take steps for, or towards, its recovery in any manner permitted by this Act with respect to the recovery of unpaid contribution.

(4) The imposition of a fine under subsection (1), shall not be treated as a conviction of the person of a criminal offence, but no prosecution for the offence in question shall thereafter be instituted or maintained.

(5) This section shall not in any way affect liability for the payment of contributions due under this Act.

- 55.** Where an offence under this Act is committed by a body corporate or unincorporate body, and the director, manager or shareholder of that body is suspected to have committed the offence and is charged of that offence, that director, manager or shareholder of the body corporate or unincorporate body is liable, on conviction, to the penalty specified for the offence, unless the director, manager or shareholder proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director, manager or shareholder or that the director, manager or shareholder took reasonable steps to prevent the commission of the offence.
- 56.** A person who commits an offence under this Act for which a penalty is not provided is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.
- 57.** (1) The Minister may, by statutory instrument, prescribe anything which by this Act is required to be prescribed or is necessary for the carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for—
- (a) the procedure for applying for and registration as a member;
 - (b) the manner and form of applying for accreditation as a health care provider for purposes of the Scheme;
 - (c) different rate of contributions for different benefit packages;
 - (d) the procedure for replacing a defaced, damaged, lost or expired membership card;
 - (e) a standard schedule of fees for items and services provided by accredited health care providers;
 - (f) payment of a prescribed fee in respect of such replacement; and
 - (g) investment guidelines for the Scheme.
- Offences by body corporate
- General penalty
- Regulations

SCHEDULE

(Sections 4 (2) and 6(6))

1. (1) The seal of the Authority shall be such device as may be determined by the Board and shall be kept by the Secretary.

Seal of
Authority

(2) The affixing of the seal shall be authenticated by the Chairperson or Vice-Chairperson and the Director-General or one other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person, not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Board, the Director-General or by any other person generally or specifically authorised by the Board in that behalf.

(4) A document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

Proceedings
of
Board

(2) The Board shall meet for the transaction of business at least once every three months at such places and times as the Board may determine.

(3) A meeting of the Board may be called by the Chairperson upon giving notice of not less than fourteen days and shall be called if not less than one-third of the members of the Board so request, in writing, except that if the urgency of a particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) Seven members of the Board shall constitute a quorum at a meeting of the Board.

(5) There shall preside at a meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
and

(c) in the absence of the Chairperson and the Vice-Chairperson, a member of the Board as the members of the Board present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be determined by a majority of the votes of the members of the Board present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member of the Board is, for any reason unable to attend the meeting of the Board, that member of the Board may, in writing, nominate another person from the same organisation to attend the meeting in that member of the Board's stead and that person shall be considered to be a member of the Board for purposes of that meeting.

(8) The Board may invite any person whose presence is, in its opinion desirable, to attend and to participate in the deliberation of a meeting of the Board, but that person shall have no vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of any member of the Board or by reason that any person not entitled to do so, took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every committee of the Board.

Tenure of
office of
Member and
vacancy

3. (1) Subject to the other provisions of this Act, a member of the Board shall hold office for a period of three years from the date of appointment and may be reappointed for a further like period but shall not successively hold office for more than two terms.

(2) The office of a member of the Board becomes vacant if the member of the Board—

- (a) dies;
- (b) is adjudged bankrupt;
- (c) is absent from three consecutive meetings of the Board of which the member of the Board has had notice, without the prior approval of the Board;
- (d) resigns from office;
- (e) becomes mentally incapable of performing the duties of a member of the Board;
- (f) is convicted of an offence under this Act or any other law;
or
- (g) ceases to represent the institution that nominated that member of the Board.

(3) Subject to the other provisions of this Act, a member of the Board shall, on the expiration of the period for which the member of the Board is appointed, continue to hold office until another member of the Board, is appointed to succeed that member of the Board, but in no case shall the member of the Board hold office for more than three month after the expiration of the member of the Board's term.

(4) A member of the Board may resign from office by giving not less than one month's notice, in writing, to the Chairperson and the Minister.

(5) The Minister shall, where the office of a member of the Board becomes vacant, appoint another person in place of the member of the Board who vacates office, and such member of the Board shall hold office for the remainder of the term.

4. A member of the Board or committee of the Board, shall be paid such allowances as the Emoluments Commission may, on the recommendation of the Board, determine.

Allowances of member

5. (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration, and in which that person or that person's relative or associate, is directly or indirectly interested in a private capacity shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

Disclosure of interest

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which the disclosure is made.

(3) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

6. (1) A person shall not, without the consent in writing, given by or on behalf of the Board, publish or disclose to an unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication of, or disclosure of information to, unauthorised person

(2) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates that information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity

7. An action or other proceeding shall not lie or be instituted against a member of the Board or committee of the Board or a member of staff of the Authority for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance, of any of the powers, functions or duties conferred under this Act.
