

**The National Health Insurance
Act, 2006**

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**AN ACT TO ESTABLISH A NATIONAL HEALTH INSURANCE SCHEME
WHEREUNDER PERSONS WOULD BE PROVIDED WITH A DEFINED
PACKAGE OF HEALTHCARE SERVICES; AND TO PROVIDE FOR
ANCILLARY MATTERS.**

Enacted by the Parliament of The Bahamas

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| Short Title and Commence- ment | 1. (1) This Act may be cited as the National Health Insurance Act, 2006. (2) The provisions of this Act shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint and different dates may be appointed for the several provisions |
| Interpre- tation. Ch. 350. | 2. (1) In this Act terms used have the same meaning as in the National Insurance Act unless defined in this Act or the context otherwise requires. (2) Without prejudice to subsection (1), in this Act- “Commission” or “NHIC” means the NHI Commission established pursuant to section 4. “dependant” means in relation to an insured, his spouse and children under the age of eighteen years, save twenty-five years if pursuing full-time studies at an educational institution, but does not include a spouse living apart from the insured pursuant to a separation agreement or an order of a court; “diagnostic services” means services to identify a disease or illness using analysis, examination, laboratory and imaging services as prescribed by a registered medical practitioner and delivered in a registered health care facility; |
| Ch. 233. | “health care provider” means a health professional within the meaning of the Health Professions Act or a health care practitioner within the meaning of the Hospital and Health Care Facilities Act or a health care facility |
| Ch. 235. | licensed under that Act; “health care services” or “health services” or “health care” includes medical, surgical, obstetrical, optical, dental, diagnostic and nursing services, and includes drugs, dressings, prosthetic appliances and any other items or health services necessary to or commonly associated with the provisions of any such specified services but does not include any health services excluded by regulations made under this Act; “income” includes save as may be prescribed any superannuation benefits received under the NIB Act; “indigent” means a person who is recognised by the Commission to be exempt in accordance with the Regulations from paying the NHI contribution by reason of his insufficiency of income; |

“Minister” means the Minister assigned responsibility for national health insurance;

“NHI beneficiary” or “beneficiary” means a person entitled to health care services under the NHI in accordance with section 8;

“NHI contribution” means the sum imposed upon and required pursuant to section 9 to be contributed to the NHI Fund by insured persons and employers and “NHI contributor” shall be construed accordingly;

“NHI Fund” means the Fund established under section 6;

“NHI health care provider” without prejudice to section 10 (4) means a person with whom the Commission has entered into a contract arrangement;

“NHI Scheme” or “NHI” means the National Health Insurance Scheme established under section 3;

Ch. 350. “the NIB Act” means the National Insurance Act;

“Regulations” means regulations made under this Act;

“wards of state” include children and persons in Government rehabilitation institutions and prisons.

Establishment of

NHI Scheme.

3. There is hereby established a National Health Insurance Scheme which shall be a financing and purchasing mechanism having the objectives of promoting a health care policy to protect, foster and restore the physical well-being of insured persons, persons in receipt of assistance and the dependants of both such persons and to facilitate their reasonable access to a defined package of health care services.

Establishment and Incorporation of NHIC.

4. (1) There shall be established a Commission to be known as the National Health Insurance Commission.

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

(3) The Commission shall be a body corporate having perpetual succession and a common seal and, subject to the approval of the Minister, capacity to acquire, lease and hold property and to make any disposal thereof.

Functions of the Commission.

5. (1) The Commission shall perform such functions as may be necessary to give effect to the objectives specified in section 3 and without prejudice to the generality of the foregoing it shall have the functions to-

- a. Monitor and administer the NHI;
- b. Advise the Minister on the policies relating to the health care needs of the NHI beneficiaries;
- c. Supervise and control expenditures from the Fund;

- d. Advise the Minister on the policies and directions concerning the use of monies of the NHI Fund; and
 - e. Establish a quality assurance programme for the functioning of the NHI through its monitoring of the health service being provided to NHI beneficiaries and requiring that the participants in the NHI submit the relevant information for inclusion in the annual report to the Minister.
- (2) The Minister, after consultation with the Commission may give to the Commission such directions whether of a general or a specific character regarding the discharge of the functions of the Commission as appear to the Minister to be requisite in the public interest and the Commission shall give effect to any such direction.

- NHI Fund.
6. (1) There is established a National Health Insurance Fund which shall be under the control and management of the Commission.
- (2) The NHI Fund shall consist of-
- a. All NHI contributions paid to or collected by the Board on behalf of the Commission;
 - b. All sums properly accruing to the NHI Fund whether by way of grant, donation or otherwise;
 - c. All monies paid into the Fund annually by the Minister responsible for Finance out of the Consolidated Fund being the equivalent of the aggregate sum of the NHI contributions shown by the Commission as would likely be payable by persons mentioned in paragraphs (c) and (d) of section 8 for health care services to be rendered to them in the respective financial year; and
 - d. Any sums approved by Parliament for payment into the NHI Fund.
- (3) There shall be paid or met out of the NHI Fund-
- a. Monies solely for the purchasing and financing of NHI health care services for NHI beneficiaries;
 - b. All costs and expenses properly incurred in the management of the NHI including disbursements by way of remuneration, allowances and other operating costs;
 - c. Monies for health education, health promotion, and to meet the cost of studies or the implementation of measures to prevent illnesses; and
 - d. Such annual sum as agreed between the Commission and the Board in consultation with the Minister is payable to the Board to meet the costs incurred by the

Board in the collection and payment over of NHI contributions.

- Ch. 350.
- (4) The Board shall maintain separate financial records with respect to monies collected by the Board in conjunction with sums collected pursuant to Part III of the NIB Act and on no account shall the monies of the NHI Scheme be used for or shall form any part of the National Insurance Fund.
- (5) Without prejudice to subsection (3) the Commission shall not make any investments in or make any loans to any person, company, NHI health care provider or other entity that may be involved in the provisions of health care services or any other service that may be provided under the NHI.
- (6) Without prejudice to any other provisions of this Act subsections (4) to (6) of section 44, sections 45, 4 and 61 of the NIB Act shall subject to any Regulations or Order made by the Minister mutatis mutandis apply to the NHI Fund and the Commission as they apply to the National Insurance Fund and its Board.
- Actuarial review and reports.
7. (1) The Commission shall with the assistance of an actuary approved by the Minister review the operation of the NHI upon the expiration of the period ending on the thirty-first day of December 2008 and of the period ending on that date in every third year thereafter and on such review shall make a report to the Minister on the financial condition of the NHI Fund and the adequacy or otherwise of payments of NHI contributions to support the NHI Scheme.
- (2) The Minister shall cause a copy of every report prepared in accordance with subsection (1) to be laid before both Houses of Parliament.
- Health care beneficiaries.
8. Health care services of the NHI shall subject to such terms and conditions as are prescribed be provided to-
- (a) insured persons and their dependants;
 - (b) persons in receipt of assistance under Part V of the NIB Act and to whom paragraph (a) may not apply;
 - (c) children under eighteen years of age or, if pursuing full time studies at an educational institution, under twenty-five years of age and to whom paragraph (a) does not apply;
 - (d) indigent persons; and
 - (e) such other persons or class of persons as are prescribed.

NHI cont- 9. (1) For the purposes of this Act an NHI contribution, which shall be the
tribution. sum prescribed under subsection (2), shall, subject to subsections (2) and
(4) and any regulations, be payable by insured persons, employers and any
other prescribed category of persons.

(2) Regulations shall provide for the rates of the NHI contribution, which
rates be based on a reasonable equitable and progressive system, to be
paid by the persons referred to in subsection (1) in the following manner-

(a) insured persons who are employed persons and their employers
shall have the sum payable by the employed person as NHI
contributions deducted from his salary and paid to the Board for
the benefit of the NHI Fund prescribed;

(b) NHI contributions from self-employed persons shall be paid to
the Board for the benefit of the NHI Fund at the time and in the
manner prescribed;

(c) voluntarily insured persons shall pay contributions at the time
and in the manner prescribed.

Ch. 350. (3) Sections 18 and 20 of the NIB Act shall, as they apply to
contributions and insured persons under that Act, apply mutatis mutandis
to NHI contributions.

(4) NHI contributions for the following persons shall be paid on their
behalf by the Government-

(a) persons whom paragraphs (b) and (c) and (d)
of section 8 apply;

(b) any other class of persons as may be
prescribed.

Health care 10. (1) The Commission may enter into a contract arrangement
providers with any health care provider for the provision by that person to
NHI beneficiaries of health care services upon such terms as are
agreed and save as may be prescribed.

(2) A contract arrangement may provide for-

a. the provision of specific circumstances to beneficiaries
for an agreed fee;

b. the provision of specific health care services to
beneficiaries for an agreed rate of payment for every
service.

- (3) Notwithstanding anything to the contrary in subsection (1) it shall be the duty of all hospitals and clinics under the authority of the Government or the Public Hospital Authority to make available its facilities, personnel and services to render and provide to NHI beneficiaries health care services.
- (4) Without prejudice to subsections (1), (2) and (3) where health care services are provided to a NHI beneficiary by a medical provider with whom there is no contract arrangement the liability of the NHI Fund or the Commission shall not exceed that which the NHI Fund or the Commission would have been liable to pay for those services to a medical provider under a contract arrangement.

Registration of health care providers. 11.

- (1) Subject to subsection (5) health care provider who wishes to render services under the NHI shall make application to the Commission to do so having regard to any prescribed criteria and notice of those providers with whom the NHI has contractual arrangements shall be published bi-annually in the Gazette.
- (2) Regulations may provide for the payment of appropriate fees for services provided to NHI beneficiaries and the keeping by health care providers of adequate and acceptable patient information and accounting records.
- (3) A health care provider who is aggrieved by a decision of the Commission not to list his name may appeal within seven days to the Minister who may confirm, vary or cancel the decision.
- (4) An appeal by the health care provider shall lie from the decision of the Minister in accordance with Rules of Court to a judge of the Supreme Court whose decision shall be final.
- (5) A person who renders health care services outside The Bahamas to a beneficiary and to whom the other provisions of this section and of section 10(1) would apply were he resident in The Bahamas shall, save as may be prescribed, not be subject to those provisions.

Enforcement of collection and payment 12.

- (1) Save as may otherwise be prescribed whenever a duty or liability of a person arises after the coming into operation of this Act to make payment of a sum as a contribution

of NHI contributions.

under the NIB Act he shall have a like duty or liability to make payment at the same time and in like manner of the NHI contribution imposed upon him under this Act.

(2) The failure to comply with subsection (1) as regards the NHI contribution shall constitute an offence as does a like failure in respect to a contribution under the NIB Act and the provisions of that Act and any regulations made thereunder which apply to the prosecution of such offense as regards a failure in respect of a contribution payable under that Act shall subject to any Regulations mutatis mutandis apply as regards a failure in respect to the NHI contribution.

(3) Without prejudice to the other provisions of this Act the provisions of the NIB Act and its regulations shall as they apply to the Board in respect of the payment and collection of contributions due under that Act, including the powers of investigation as to compliance with those provisions, apply mutatis mutandis in respect of the payment to and collection by the Board of NHI contributions.

Officers and employees of the Commission.

13. (1) The Commission shall appoint a Chief Executive Officer of the Commission (herein referred to as the CEO) and may employ such other officers and employees at such remuneration and on such terms and conditions as it considers necessary or appropriate for the proper conduct of its business:

Provided that the Commission shall not without the prior approval of the Minister-

- (a) assign to any post a salary, which is above the highest level of that specified in a general policy direction given to the Commission by the Minister;
- (b) make an appointment to any post to which a salary mentioned in paragraph (a) of this proviso is attached;
- (c) make any appointment of a legal adviser to, or medical officer of, the Commission;
- (d) terminate the employment of any person who holds such a post; or
- (e) make any provision for the payment of any pensions or gratuities or other like benefits to any officers or other employees of the Commission by reference to their service.

(2) Subject to the provisions of this Act, the CEO may delegate to any committee or officer or employee of the Commission any such function as the CEO may determine:

Provided that every delegation under this subsection shall be revocable by the CEO and no delegation shall prevent the exercise by the CEO of any function so delegated.

- (3) Subject to the provisions of any other enactment, in any action or other legal proceedings brought against any officer or employee of the Commission or the Board in respect of any act done in pursuance or execution or intended execution of this Act, the plaintiff shall not recover unless he alleges in his pleading and proves at the trial that such act was done either maliciously or without reasonable and probable cause.
- (4) No person who has acquired information in his capacity as a member, officer, employee or agent of the Commission shall without the express or implied consent of the person to whom the information relates (herein referred to as the client) disclose to any other person any such information relating to the identity, assets, liability or medical condition of the client except-
 - (i) for the purpose of the performance of his duties or the exercise of his functions under this Act, if any;
 - (ii) for the purpose of the performance of his duties within the scope of his employment;
 - (iii) when the Commission is lawfully required to make disclosure by any court of competent jurisdiction within The Bahamas, or under the provisions of any law of The Bahamas;
 - (iv) to a person with a view to the institution of, or for the purpose of-
 - (a) criminal proceedings;
 - (b) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary of his professional duties; or
 - (c) disciplinary proceedings relating to the discharge by a public officer of his duties.
- (5) Every person who contravenes the provisions of subsection (4) shall be guilty of an offence and shall be liable on

summary conviction to a fine not exceeding twenty-five thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

Integration of statutory benefits with contractual benefits.

14. (1) Notwithstanding anything to the contrary contained in any other law or contract of service, or any agreement with the employees, every employer is entitled to modify in such manner as may be prescribed, the rate of contributions payable under any health insurance scheme instituted by him for the benefit of his employees (hereinafter called the "Occupational Health Scheme") for the purpose of eliminating overlapping health care services and thereby ensuring that the aggregate of the health care services receivable under that scheme by an employee while in the service of the employer and the health insurance benefits receivable by the employee under this Act as an NHI contributor are not duplicated.
- (2) No employer shall make any modification pursuant to subsection (1) without obtaining the prior written approval of the Minister and for which purpose he shall submit a copy of the relevant Occupational Health Scheme together with such particulars and information as may be required by the Minister.
- (3) Any person who is in breach of subsection (2) or fails to comply with any lawful request thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.
- (4) The Commission shall comply with reasonable requests from an employer to be furnished with information of the health care services accessible by any of his employees under this Act for the purpose of giving effect to subsection (1).

Regulations. 15.

- (1) The Minister may make Regulations for the administration of this Act or where required by any of its provisions or for carrying its purposes and provisions into effect, including without restricting the generality of the foregoing, regulations may provide for-
- (a) the time and manner of paying for the rendering of health care services to NHI

beneficiaries whether within or outside The Bahamas;

- (b) the sharing between the Commission and a NHI beneficiary of the cost of providing health care service to the beneficiary or class of beneficiaries;
- (c) the establishment of criteria which should be met by a health care provider for registration by the Commission;
- (d) the time from and the terms and conditions under which health care services would be provided to NHI beneficiaries including the exclusion of any type or class of those services;
- (e) determining the circumstances in which a person is or is not to be deemed for the purposes of this Act to be a dependant of an NHI beneficiary;
- (f) the issue by the Commission and the form of issue of NHI Scheme identification cards;
- (g) the procedure for a NHI beneficiary or health care provider to appeal any decision of the Commission by which he is aggrieved other than as mentioned in section 11;
- (h) the procedure to enable an NHI beneficiary or health care provider to seek redress from the Commission by reason of any act or omission done by any person operating under the NHI Scheme;
- (i) the creation of summary offences in respect of the breach of any regulations and the imposition of penalties for such breach.

- (2) Save as this Act otherwise makes provision for the Minister may by Order apply the provisions of the NIB Act (which reference includes regulations made thereunder) to the NHI Scheme subject to such modifications, adaptations, qualifications, and exceptions as the Minister considers necessary for the purpose.

Ch. 2.

- (3) The provisions of section 31 and 32 of the Interpretation Act and General Clauses shall not

apply in relation to any Regulations or Orders made by the Minister under this Act, but instead all such Regulations or Orders shall be subject to affirmative resolution of both chambers of Parliament.

- (4) In subsection (3) the expression “subject to affirmative resolution of both chambers of Parliament” in relation to Regulations or Orders means that any such regulations or orders are not to come into operation unless and until approved by a resolution of each of those chambers.

Consequential amendments to Ch. 350.

16. The National Insurance Act is amended by the addition to section 4 of the following subsection-

“(3) Nothing in this Act shall be construed as precluding the Board from discharging any statutory responsibility in respect to the National Health Insurance Scheme and for that purpose the Board may with the approval of the Minister enter into an agreement upon such terms as agreed with the National Health Insurance Commission.”

(Section 4)

SCHEDULE
CONSTITUTION AND OTHER RELATED MATTERS OF THE COMMISSION

1. Members of the Commission shall include ten persons, seven of whom shall be appointed from among those categories of persons that would be regarded as representative of the views of the Bahamian consumer, the medical and nursing profession and the religious, commercial and labour sectors.
2. The Director of the Board, the Chief Medical Officer and the Director of Social Services shall be ex-officio members with no right to vote.
3. The Minister shall appoint a Chairman from among the appointed members of the Commission and, subject to the provisions of this Schedule, the tenure of that office is for a period of three years.
4. An appointed member shall, subject to the provisions of this Schedule, hold office for a period of three years and shall be eligible for re-appointment for a further term of three years save that no member shall be the beneficiary of three or more consecutive appointments.

5. The Commission shall meet at least once in every quarter of the year and at such times as may be necessary or expedient for the transaction of business and the CEO shall be entitled to attend and take part in any meeting but shall not be entitled to vote.
6. The Minister shall direct that the members of the Commission be paid an honorarium out of the NHI fund.
7. An appointed member may at any time resign his office by notifying the Chairman in writing who shall forward the same to the Minister and upon the date of the receipt by the Chairman of such document such member shall cease to be a member.
8. The Chairman may resign his office by notifying the Minister in writing and such resignation shall take effect upon the date of the receipt of such document by the Minister.
9. The Minister may by instrument in writing revoke the appointment of the Chairman or any other appointed member of the Commission if he thinks it desirable or expedient to do so in the interests of the NHI.
10. The appointment, removal, death or resignation of a chairman, deputy chairman or appointed member shall be notified in the Gazette.
11. The Commission may sue and be sued in its corporate name and may for all purposes be described by that name and service upon the Commission of any notice, order or other document of whatever kind shall be executed by delivering the same to, or sending it by registered post addressed to the Chairman of the Commission at the principal office of the Commission, notice of which address or change in address shall be published in the Gazette within ten days of the location of the office.
12. The decisions of the Commission 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.
13. A member of the Commission who is directly or indirectly interested in any matter which is being dealt with by the Commission-
 - (a) shall disclose the nature of his interest at a meeting of the Commission; and
 - (b) shall not take part in any deliberation or decision of the Commission with respect to that matter.

14. Save herein otherwise provided in this Schedule, the provisions of sections 5 through 9 of the NIB Act shall mutatis mutandis apply to the Commission as they apply to the Board.

OBJECTS AND REASONS

Clause 1 sets out the title to the legislation and for different dates to be appointed for the coming into force of any of its provisions.

Clause 2 makes provision for the meaning to be given terms used in the Bill and where no definition is assigned to a specific term, the meaning to be given to it, is as set out in the National Insurance Act, Chapter 350.

Clauses 3 and 4 provide for the establishment of a National Health Insurance Scheme (NHI) and the National Health Commission (the Commission) as a corporate body, the latter to be constituted in accordance with the terms of the Schedule to the Bill.

The Commission is vested by clause 5 with several responsibilities including that to administer the NHI and to advise the Minister responsible for the scheme.

Clause 6 establishes a fund of the NHI that will be administered by the Commission and into which all income of the NHI, including the contributions to the scheme collected by the National Insurance Board (NIB) will be paid. The clause also mandates the NIB to keep the contributions collected by it for the NHI separate and apart from its other monies and empowers the Commission to exercise similar powers of investment of its funds as are statutorily given to the NIB.

The Commission is required by clause 7 to carry out periodic reviews of its operations and to submit a report of such to the Minister who shall cause a copy to be laid before both Houses of Parliament.

Clause 8 identifies the several categories of persons who are to benefit from the services provided under NHI. These are all children, persons insured under the NIB Act, persons receiving assistance from NIB or who are in government rehabilitation institutions and the dependants, as defined in the legislation, of those persons.

To provide financing for the NHI, clause 9 provides for a sum to be paid as NHI contributions by persons insured within the meaning of the National Insurance Act and by their employers and any other class of persons prescribed under this legislation at varying rates and in the same manner and procedure provided by the NIB Act and its regulations.

Under clause 10 the Commission is required to list the health care providers contracted by the Commission to provide to beneficiaries of the NHI the services to be rendered to them under the health insurance scheme while mandating that health institutions managed by the Government or the Public Hospital Authority shall make such provision.

Clause 11 enables a health care provider who is not listed to appeal the decision of the Commission not to do so.

Clause 12 ties the time and manner for the payment by insured and other persons of NHI contributions to their liability to pay national insurance contributions under the National Insurance Act and any failure to pay the NHI contributions constitute and is enforceable as an offence akin to that arising from the non-payment of the national insurance contributions.

Clause 13 provides for the appointment of a Chief Executive Officer and other officers of the Commission and for the approval of the Minister to be obtained in relation to some of their terms and conditions of employment.

Clause 14 vests in an employer a right to modify with the approval of the Minister any existing obligation of his to make contributions in respect of the provisions of his employees of health insurance so as to avoid there being a duplication of services thereunder by reason of the implementation of this legislation.

Clause 15 empowers the Minister assigned responsibility for national health insurance to make regulations for the several purposes specified in the clause including for the purpose of carrying out the provisions of this Act and to make Orders applying the NIB Act and its regulations to the health insurance scheme. These Regulations or Orders would not come into operation until approved by both Houses of Parliament.

Clause 16 purports to effect consequential amendments to the National Insurance act in recognition of the responsibility placed upon the National Insurance Board by this legislation.