

NATIONAL HEALTH INSURANCE SCHEME ACT

ARRANGEMENT OF SECTIONS

PART I

Establishment, etc., of the National Health Insurance Scheme

SECTION

1. Establishment of the National Health Insurance Scheme.
2. Establishment of the Governing Council.
3. Tenure of office.
4. Cessation of membership.

PART II

Objectives, functions and powers of the Scheme

5. Objectives of the Scheme, etc.
6. Functions and powers of the Scheme.
7. Functions of the Council.

PART III

Staff of the Scheme

8. Executive Secretary and other staff of the Scheme.
9. Appointment of an actuary for the Scheme.
10. Service in the Scheme to be pensionable.

PART IV

Financial provisions

11. Funds, etc.
12. Power to accept gifts.
13. Annual estimate, account and audit.
14. Annual report.
15. Exemption from tax.

PART V

Contributions, etc.

16. Payment of contributions under the Scheme.
17. Registration: employers and employees.
18. Registration: health care providers.
19. Registration: health maintenance organisations.
20. Functions of organisations.

National Health Insurance Scheme Act

PART VI

Zones and Zonal Health Insurance Offices

SECTION

21. Establishment of Zones and Zonal Health Insurance Offices.
22. Functions of Zonal Offices.
23. Fund of the Zonal Offices.
24. Annual report by Zonal Officer.
25. Inspection of books of account by auditors.

PART VII

Arbitration

26. Establishment and functions of the State and Federal Capital Territory Arbitration Board.
27. Membership of the Arbitration Board.

PART VIII

Offences, penalties and legal proceedings

28. Offences.
29. Offences by bodies corporate, etc.
30. Prosecution of offender.
31. Jurisdiction.
32. Court to order payment of contributions together with interest and penalty.
33. Commencement of proceedings.
34. Limitation of suits against the Scheme, etc.
35. Service of documents.
36. Restriction on execution against property of the Scheme.
37. Indemnity of officers.

38. Secrecy.

PART IX

Miscellaneous

39. Contributions to be inalienable.
40. Contributions to be deductible.
41. Transfer of liability to contribute in the case of mergers, acquisitions, etc.
42. Exclusion from application of Cap. T22.
43. Reciprocal agreement with other countries.
44. Contributions by members of the armed forces and the police.
45. Insurance indemnity of health care providers.
46. Establishment of a Standards Committee, etc.
47. Power of the Minister to give directives.
48. Guidelines.
49. Interpretation.
50. Short title.

National Health Insurance Scheme Act

SCHEDULE

Supplementary provisions relating to the Council

NATIONAL HEALTH INSURANCE SCHEME ACT

An Act to establish the National Health Insurance Scheme with the objectives of ensuring access to good health care services to every Nigerian and protecting Nigerian families from financial hardship of huge medical bills; and for matters connected therewith.

[1999 No. 35.]

[10th May, 1999]

[Commencement.]

PART I

Establishment, etc., of the National Health Insurance Scheme

1. Establishment of the National Health Insurance Scheme

(1) There is hereby established a scheme to be known as the National Health Insurance Scheme (in this Act referred to as "the Scheme") for the purpose of providing health insurance which shall entitle insured persons and their dependants the benefit of prescribed good quality and cost-effective health services as set out in this Act.

(2) The Scheme-

- (a) shall be a body corporate with perpetual succession and a common seal; and
- (b) may sue and be sued in its corporate name.

2. Establishment of the Governing Council

(1) There is hereby established for the management of the Scheme, a Governing Council (in this Act referred to as "the Council") which shall, subject to this Act, have general control of the Scheme.

(2) The Council shall consist of the following members-

- (a) the chairman, who shall be appointed by the President, on the recommendation of the Minister;
- (b) one person to represent the Federal Ministry of Health;
- (c) one person to represent the Federal Ministry of Finance;
- (d) one person to represent the Office of Establishment and Management Services in the office of the head of Civil Service of the Federation;
- (e) one person to represent the Nigerian Employers Consultative Association;

National Health Insurance Scheme Act

- (f) one person to represent the Nigeria Labour Congress;
- (g) one person to represent the registered health maintenance organisations;
- (h) one person to represent the private health care providers;
- (i) two persons to represent public interest; and
- (j) the Executive Secretary of the Scheme who shall also be the Secretary to the Council.

(3) The chairman shall be appointed from the private sector and be a person of relevant high education, knowledge and integrity.

(4) The other members of the Council shall-

(a) *be person of proven integrity; and*
(b) *be appointed by the president, on the recommendation of the minister*

(5) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Council and the other matters contained therein.
[Schedule.]

3. Tenure of office

(1) A member of the Council, other than an *ex-officio* member, shall hold office for a term of four years in the first instance and may be re-appointed for a further term of four years and no more.

(2) The members of the Council shall be paid such remuneration and allowances as the Federal Government may, from time to time, determine for the chairmen and members of statutory boards generally.

(3) A member of the Council, other than an *ex-officio* member, may resign his appointment by notice, in writing under his hand, addressed through the Minister, to the President, which resignation shall take effect only on acknowledgement by the President.

4. Cessation of membership

(1) A member of the Council shall cease to hold office if-

- (a) he becomes of unsound mind; or
- (b) he becomes bankrupt or makes a compromise with his creditors; or
- (c) he is convicted of a felony or of any offence involving dishonesty; or
- (d) he is guilty of serious misconduct in relation to his duties.

(2) A member of the Council may be removed from office by the President on the recommendation of the Minister if he is satisfied that it is not in the interest of the Scheme or the interest of the public that the member should continue in office.

(3) Where a vacancy occurs in the membership of the Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however, that the successor shall represent the same interest and shall be appointed by the President.

PART II

Objectives, functions and powers of the Scheme

5. Objectives of the Scheme, etc.

The objectives of the Scheme shall be to-

- (a) ensure that every Nigerian has access to good health care services;
- (b) protect families from the financial hardship of huge medical bills;
- (c) limit the rise in the cost of health care services;
- (d) ensure equitable distribution of health care costs among different income groups;
- (e) maintain high standard of health care delivery services within the Scheme
- (f) ensure efficiency in health care services;
- (g) improve and harness private sector participation in the provision of health care services;
- (h) ensure adequate distribution of health facilities within the Federation;
- (i) ensure equitable patronage of all levels of health care;
- (j) ensure the availability of funds to the health sector for improved services.

6. Functions and powers of the Scheme The Scheme shall be responsible for-

- (a) registering health maintenance organisations and health care providers under the Scheme;
- (b) issuing appropriate guidelines to maintain the viability of the Scheme;
- (c) approving format of contracts proposed by the health maintenance organisations for all health care providers;
- (d) determining, after negotiation, capitation and other payments due to health care providers, by the health maintenance organisations;
- (e) advising the relevant bodies on inter-relationship of the Scheme with other social security services;
- (j) the research and statistics of matters relating to the Scheme;
- (g) advising on the continuous improvement of quality of services provided under the Scheme through guidelines issued by the Standard

Committee

established under section 46 of this Act;

(h) determining the remuneration and allowances of all staff of the Scheme;

(i) exchanging information and data with the National Health Management Information System, Nigerian Social Insurance Trust Fund, the Federal Office of Statistics, the Central Bank of Nigeria, banks and other financial institutions, the Federal Inland Revenue Service, the State Internal Revenue Services and other relevant bodies;

(j) doing such other things as are necessary or expedient for the purpose of achieving the objectives of the Scheme under this Act.

7. Functions of the Council

The Council shall have power to-

(a) manage the Scheme in accordance with the provisions of this Act;

(b) determine the overall policies of the Scheme, including the financial and operative procedures of the Scheme;

(c) ensure the effective implementation of the policies and procedures of the Scheme;

(d) assess, from time to time, the research, consultancy and training programmes relative to the Scheme;

(e) arrange for the financial and medical audit of the Zonal Health Insurance Offices established under section 21 of this Act;

(f) set guidelines for effective co-operation with other organisations to promote the objectives of the Scheme

(g) co-ordinating quarterly returns from the Zonal Health Insurance Offices;

- (h) ensuring public awareness about the Scheme;
- (i) co-ordinating manpower training under the Scheme;
- (j) carry out such other activities as are necessary and expedient for the purpose of achieving the objectives of the Scheme as set out in this Act.

PART III

Staff of the Scheme

8. Executive Secretary and other staff of the Scheme

(1) There shall be appointed by the President, on the recommendation of the Minister, an Executive Secretary.

(2) The Executive Secretary shall-

- (a) be a person with relevant qualification and experience;
- (b) be the chief executive and accounting officer of the Scheme;
- (c) hold office-
 - (i) for a period of five years in the first instance and may be re-appointed for a further term of five years and no more; and
 - (ii) on such terms and conditions as may be specified in his letter of appointment.

(3) The Executive Secretary shall, subject to the general direction of the Council, be responsible for-

- (a) the day-to-day administration of the Scheme;
- (b) keeping the books and proper records of the proceedings of the Council
- (c) the administration of the secretariat of the Council; and
- (d) the general direction and control of all other employees of the Scheme.

(4) The Council shall-

- (a) appoint, for the Scheme, such number of directors and other employees as may, in the opinion of the Council, be required to assist the Council in the discharge of any of its functions under this Act; and

(b) pay to persons so appointed such remuneration (including allowances) as the Council may, after consultation with the Federal Civil Service Commission, determine.

9. Appointment of an actuary for the Scheme

(1) The Council shall appoint for the Scheme, a licensed actuary on such terms and conditions of service as the Council may, from time to time, determine.

(2) The actuary shall review the Scheme and evaluate it actuarially, including the rates of contributions payable under the Scheme and make appropriate recommendations to the Council.

(3) If, having regard to the review and evaluation carried out by the actuary under subsection (2) of this section, the Council considers that the rates of contributions have not retained their value in relation to the general level of earning obtaining in Nigeria, the Council may modify the rates to the extent considered appropriate and bring the new rates to the notice of the persons affected by the modification.

10. Service in the Scheme to be pensionable

(1) Service in the Scheme shall be approved service for purposes of the Pensions Act.

[Cap. P4.]

(2) Employees of the Scheme shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the Federation.

(3) Nothing in subsections (1) and (2) of this section or in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

(4) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 of the Act, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

PART IV

Financial provisions

11. Funds, etc.

(1) The Council shall establish and maintain for the Scheme a fund from which shall be defrayed all expenditure incurred for the purposes of the Scheme.

(2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this section-

(a) such money as may be received from the health maintenance organisations;

(b) such money as may be granted or received from the Federal, State and local governments;

(c) such money as may, from time to time, be granted or received from-

(i) the organised private sector;

(ii) international or donor organisations and non-Governmental organisations;

(3) The Scheme shall, from time to time, apply the funds at its disposal-

(a) to the cost of the administration of the Scheme;

(b) to the payment of fees, allowances and benefits of members of the Council;

(c) to the payment of salaries, allowances and benefits of officers and employees of the Scheme;

(d) for the maintenance of any property vested in the Scheme or under its administration; and

(e) for and in connection with the objectives of the Scheme under this Act.

(4) The Scheme shall invest any money not immediately required by it in Federal Government securities or in such other securities as the Council may, with the approval of the Minister, from time to time, determine.

12. Power to accept gifts

(1) The scheme shall invest any money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The scheme shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the objectives and functions of the scheme under this Act.

13. Annual estimate, account and audit

(1) The Council shall cause to be prepared, not later than 30 September in each year, an estimate of the expenditure and income of the Scheme during the next succeeding year and when prepared, they shall be submitted to the Minister for approval.

(2) The Council shall cause to be kept proper accounts of the Scheme and proper records in relation thereto and when certified by the Council, the accounts shall be audited by auditors appointed by the Council from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

(3) Any member, agent or employee of the Scheme who fails, without reasonable cause, to comply with a requirement of an auditor under subsection (2) of this section, commits an offence and is liable on conviction to a fine not exceeding N10,000 or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

14. Annual report

The Council shall, not later than six months immediately following the end of a year-
(a) submit to the Minister a report on the activities and the administration of the Scheme during the immediately preceding year and shall include in the report the audited accounts of the Scheme and the auditor's report on the accounts; and

(b) present the audited annual accounts, auditor's report on the accounts and report on the activities of the Scheme to an annual meeting comprising the registered contributors to the Scheme and all the registered health maintenance organisation and health care providers under the Scheme.

15. Exemption from tax

(1) The Scheme shall be exempted from the payment of tax on any income accruing from investments made by the Council for the Scheme or otherwise howsoever.

(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Scheme or the Council.

PART V

Contributions, etc.

16. Payment of contributions under the Scheme

(1) An employer who has a minimum of ten employees may, together with every person in his employment, pay contributions under the Scheme, at such rate and in such manner as may be determined, from time to time, by the Council.

(2) An employer under the Scheme shall cause to be deducted from an employee's wages the negotiated amount of any contribution payable by the employee and shall not, by reason of the employer's liability for any contribution (or penalty thereon) made under this Act, reduce, whether directly or indirectly, the remuneration or allowances of the employee in respect of whom the contribution is payable under this Act.

17. Registration: employers and employees

(1) Subject to such guidelines and regulations as may be made under this Act, an employer under the Scheme shall register itself and its employees under the Scheme and pay into the account of a designated health maintenance organisation, its contributions and the contributions in respect of its employees, at such time and in such manner as may be specified, from time to time, in guidelines issued by the Council.

(2) An application for the registration of an employer under the Scheme shall be made in such form and manner as may be determined, from time to time, by the Council.

(3) A person not liable to pay contributions under this Act may apply to be registered as a voluntary contributor under the Scheme and shall, after being so registered, be liable to pay the specified contributions as required under this Act and be entitled to the health services referred to in subsection (1) of section 18 of this Act.

18. Registration: health care providers

(1) A health care provider registered under the Scheme shall, in consideration for a capitation payment in respect of each insured person registered with it, or for payment of approved fees for services rendered and to that extent and in the manner prescribed by this Act, provide-

- (a) defined elements of curative care;
- (b) prescribed drugs and diagnostic tests;
- (c) maternity care for up to four live births for every insured person;
- (d) preventive care, including immunisation, family planning, ante natal and postnatal care;
- (e) consultation with defined range of specialists;
- (j) hospital care in a public or private hospital in a standard ward during a stated duration of stay for physical or mental disorders;
- (g) eye examination and care, excluding test and the actual provision of spectacles;
and
- (h) a range of prosthesis and dental care as defined.

(2) The registration of health care providers under the Scheme shall be in such form and manner as may be determined by the Council, from time to time, under this Act.

(3) In this section, "defined" means defined by the Council.

19. Registration: health maintenance organisations

(1) The Council shall approve and register for the Scheme private and public health maintenance insurance organisations (in this Act referred to individually as "organisation") for the purposes of this Act.

(2) The registration of an organisation under the Scheme shall be in such form and manner as may be determined, from time to time, by the Council, using guidelines which shall include provisions requiring the organisation to-

- (a) be financially viable before and after registration;
- (b) make a complete disclosure of the ownership structure and composition of the organisation;
- (c) have account with one or more banks approved by the Council;

(d) be insured with an insurance company acceptable to the Council;
and

(e) give an undertaking that the organisation shall manage and invest the funds accruing to it from contributions received pursuant to this Act in accordance with guidelines to be issued, from time to time, by the Council.

(3) The registration of an organisation under the Scheme-

(a) shall be valid for such period as may be determined by the Council; and

(b) may be renewed at the expiry of every registration, so however that, no registration shall be renewed unless the organisation concerned has complied with guidelines issued under this Act.

20. Functions of organisations

An organisation referred to in subsection (1) of section 19 of this Act shall have responsibility for-

(a) the collection of contributions from eligible employers and employees under this Act;

(b) the collection of contributions from voluntary contributors under subsection (3) of section 17 of this Act;

(c) the payment of capitation fees for services rendered by health care providers registered under the Scheme;

(d) rendering to the Scheme returns on its activities as may be required by the Council

(e) contracting only with the health care providers approved by the Scheme for the purpose of rendering health care services under this Act; the

(j) ensuring that contributions are kept in accordance with guidelines issued by the Council and in banks approved by the Council; and

(g) establishing a quality assurance system to ensure that qualitative care is given by the health care providers.

PART VI

Zones and Zonal Health Insurance Offices Establishment, etc., of Zones and Zonal Health Insurance Offices

21. Establishment of zones and Zonal Health Insurance Offices

The Council shall divide the country into such number of zones as it may, from time to time, determine, and establish in each zone, a Zonal Health Insurance Office (in this Act referred to as "Zonal Office").

22. Functions of the Zonal Offices

A Zonal Office shall be responsible in the zone for-

- (a) determining the areas in which there are sufficient services for the Scheme to operate;
- (b) strategic planning for the successful implementation of the Scheme;
- (c) undertaking programmes for phasing-in the Scheme;
- (d) maintaining a register of health care providers
- (e) inspecting health care providers and their facilities to ensure that they maintain good quality services;
- (f) developing health care services in areas where those services are not adequate;
- (g) collecting statistics on consultations and admissions to hospitals, including length of stay;
- (h) preparing reports, accounts and statistical returns and forwarding them to the council
- (i) the general administration of the Scheme;
- (j) promoting the good relations of the Scheme;
- (k) doing such things which, by this Act or any other enactment, are required or permitted to be done by the Scheme as may, from time to time, be directed by the council

Financial provisions relating to the Zonal Offices

23. Fund of the Zonal Offices

(1) There shall be paid and credited to the account of a Zonal Office-

(a) such money as may be granted as allocation from the Scheme;

(b) such money as may be granted by or received from the States and local governments within the zone;

(c) such money as may, from time to time, be granted or recorded as voluntary contributions by persons and organisations.

(2) The Zonal Office shall apply the sums at its disposal-

(a) to the cost of administration of the Zonal Office;

(b) for the training of members of staff of the Zonal Office;

(c) to the payment of salaries, allowances and benefits of officers and employees in the Zonal Office; and

(d) for and in connection with the objectives of the Scheme under this Act.

(3) All money received by a Zonal Office shall be paid into an account approved by the Council and no money shall be withdrawn from the account except-

(a) by means of cheques signed by such persons as the Council may specially authorise in that behalf; or

(b) by such other means as the Council may, from time to time, approve.

(4) Subject to the provisions of section II (4) of this Act, any money not immediately required to meet the obligations of the Zonal Office shall be invested by the Council having regard to the need to-

(a) allow for the safe retrieval of the money invested, together with the return on interest sufficient to maintain the real purchasing power of the money;

(b) secure a rate of return at least equal to that assured by the actuary in the last actuarial review under this Act; and

(c) provide for the realisation of the investments to be consistent with the future liabilities of the Zonal Office.

24. Annual report by Zonal Offices

(1) A Zonal Office shall prepare an annual report of its activities and operations after the end of each financial year and shall submit to the Council the annual report together with the audited accounts referred to in this Act.

(2) Notwithstanding the submission of the report referred to in subsection (1) of this section, the Council may require a Zonal Office to obtain from the auditors appointed under this Act, such other reports, statements or explanations in connection with the Scheme and operations of the Zonal Office as the Council may, from time to time, consider expedient.

25. Inspection of books of account by auditors

(1) The auditors appointed under this Act shall be entitled at all reasonable times to require to be produced to them accounts and other records kept by a Zonal Office and to inquire from any member, agent or employee of the Zonal Office such information and explanations as in the opinion of the auditors are necessary for the purpose of their audit.

(2) Any member, agent or employee of a Zonal Office who fails, without reasonable cause, to comply with a requirement of an auditor under subsection (1) of this section, commits an offence and is liable on conviction to a fine not exceeding N I 0,000 or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

PART VII

Arbitration

26. Establishment and functions of the State and Federal Capital Territory Arbitration Board

(1) There shall be established for each State of the Federation and the Federal Capital Territory, Abuja, as and when necessary, a State Health Insurance Arbitration Board and a Federal Capital Territory Health Insurance Arbitration Board, respectively, (in this Act referred to as "Arbitration Board").

(2) The Arbitration Board shall be charged with the responsibility of considering complaints made by any aggrieved party-

- (a) of violation of any of the provisions of this Act; or
- (b) against any of the agents of the Scheme; or
- (c) against an organisation or a health care provider.

(3) A complaint made under subsection (2) of this section shall be made in writing within 60 days from the date of the action giving rise to the complaint, notwithstanding that credible reasons have been rendered for the action.

(4) The period specified in subsection (3) of this section may be extended if the Arbitration Board is satisfied that the complainant was justifiably unable to make the complaint within that period.

27. Membership of the Arbitration Board

(1) The Arbitration Board shall consist of-

(a) a chairman who shall be a legal practitioner with not less than 15 year post-qualification experience;

(b) one person each to represent each of the following-

(i) the Nigerian Medical Association in the State or the Federal Capital Territory, Abuja;

(ii) the Nigerian Employers Consultative Association in the State or the Federal Capital Territory, Abuja;

(iii) the Nigeria Labour Congress in the State or the Federal Capital Territory, Abuja;

(iv) the National Association of Nigerian Nurses and Midwives in the State or the Federal Capital Territory, Abuja; and

(v) the Pharmaceutical Society of Nigeria in the State or the Federal Capital Territory, Abuja, as the case may be; and

(c) two persons to represent the public interest.

(2) The members of the Arbitration Board shall be-

(a) appointed by the Governor of the State or the Minister of the Federal Capital Territory, Abuja, as the case may be, on such terms and conditions as may be specified in their letters of appointment; and

(b) paid such sitting and other allowances as the Council may decide.

(3) The quorum of any sitting of the Arbitration Board shall be five members.

(4) The chairman of the Arbitration Board shall convene all meetings of the Arbitration Board.

(5) Subject to subsection (3) of this section, the Arbitration Board may make provisions regulating its own proceedings.

(6) There shall be for the Arbitration Board a secretary who shall be appointed _____ by _____ the Council on such terms and conditions as the Council may determine.

PART VIII

Offences, penalties and legal proceedings

28. Offences

(1) Any person who-

(a) fails to pay into the account of an organisation and within the specified period any contribution liable to be paid under this Act; or

(b) deducts the contribution from the employee's wages and withholds the contribution or refuses or neglects to remit the contribution to the organisations concerned within the specified time, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction-

(a) in the case of a first offence, to a fine of N100,000 or 500 *per centum* of the amount of the contribution involved, together with accrued interest on the contribution, whichever is higher, or imprisonment for a term not exceeding two years or less than one year or to both such fine and imprisonment; and

(b) in the case of a second or subsequent offence, to a fine of N200,000 or 1,000 *per centum* of the amount of the contribution involved together with accrued interest on the contribution, whichever is higher, or imprisonment for a term not exceeding five years or less than two years or to both such fine and imprisonment.

29. Offences by bodies corporate, etc.

(1) Where an offence under this Act has been committed by a body corporate or firm or other association of individuals, a person who at the time of the commission of the offence-

(a) was an officer of the body corporate, firm or other association; or

(b) was purporting to act in the capacity of an officer of the body corporate, firm or other association, is deemed to have committed the offence and liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) In this section, "officer", includes-

(a) in the case of a body corporate, a director, chief executive by whatever name called, manager and secretary of the body corporate;

(b) in the case of a firm, a partner, manager and secretary of the firm;
and

(c) in the case of any other association of individuals, a person concerned in the management of the affairs of the association.

30. Prosecution of offender

Any person who contravenes any of the provisions of this Act shall be prosecuted by-

(a) the Attorney-General of the State or any legal officer in the Ministry of Justice of the State; and

(b) in the case of the Federal Capital Territory, Abuja, by the Attorney-General of the Federation or any legal officer in the Federal Ministry of Justice.

31. Jurisdiction

The High Court of a State or of the Federal Capital Territory, Abuja, shall have-

(a) jurisdiction to try offenders under this Act; and

(b) power, notwithstanding any thing to the contrary in any other enactment, to impose the penalties provided for offences in this Act.

32. Court to order payment of contributions together with interest and penalty

(1) The High Court before which a person is convicted of an offence under this Act may, without prejudice to any civil remedy, order a person to pay to the fund of the Scheme the amount of any contributions together with interest and penalty thereon, certified by the Council to be due and payable at the date of the conviction and such amount

shall be paid into the fund of the Scheme for its credit, where applicable or of the employee concerned.

(2) Any contribution paid into the fund of the Scheme under subsection (1) of this section shall be refunded to the organisation entitled to receive the contribution.

33. Commencement of proceedings

Proceedings for an offence under this Act may be commenced at any time after the commission of the offence.

34. Limitation of suits against the Scheme, etc.

(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Scheme.

[Cap. P41.]

(2) Notwithstanding anything contained in any other enactment, no suit shall lie against any member of the Council, the Executive Secretary or any other officer or employee of the Scheme for any act done in pursuance or execution of this Act or any other enactment or law, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or such enactment or law, duty or authority, shall lie or be instituted in any court unless it is commenced-

(a) within three months next after the act, neglect or default complained of; or

(b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

(3) No suit shall be commenced against a member of the Council, the Executive Secretary, officer or employee of the Scheme before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Scheme by the intending plaintiff or his agent.

(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claims, the name and place of abode of the intending plaintiff and the relief which he claims

35. Service of documents

A notice, summons or other document required or authorised to be served on the Scheme under the provisions of this Act or any other enactment or law may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the principal office of the Scheme.

36. Restriction on execution against property of the Scheme

(1) In any action or suit against the Scheme, no execution or attachment of process in the nature thereof shall be issued against the Scheme unless not less than 3 months notice of the intention to execute or attach has been given to the Scheme.

(2) Any sums of moneys which may by the judgment of any court be awarded against the Scheme shall, subject to any directions given by the court where notice of appeal of the said judgement has been given, be paid from the general reserve fund of the Scheme.

37. Indemnity of officers

A member of the Council, the Executive Secretary, any officer or employee of the Scheme shall be indemnified out of the assets of the Scheme against any liability incurred by him in defending any proceeding, whether civil or criminal, if any such proceeding is brought against him in his capacity as a member, Executive Secretary, officer or other employee of the Scheme.

38. Secrecy

(1) A member of the Council, the Executive Secretary, officer or other employee of the Scheme shall-

(a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty under this Act;

(b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his functions under this Act;

(c) not disclose any information referred to under paragraph (b) of this subsection except when required to do so by an Arbitration Board or the court or in such other circumstances as may be prescribed by the Council, from time to time.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than N20,000 or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

PART IX

Miscellaneous

39. Contributions to be inalienable

Contributions payable under the Scheme shall be inalienable and shall not be assets for the benefit of creditors in the event of the bankruptcy or insolvency of a contributor or an organisation.

40. Contributions to be deductible

Notwithstanding anything in any law or enactment, contributions whether by an employer or an employee under this Act shall form part of tax deductible expenses in the computation of tax payable by an employer or, as the case may be, by an employee, under any other relevant law applicable to income tax.

41. Transfer of liability to contribute **in** the case of mergers, acquisitions, etc.

Where, under section 100 of the Investment and Securities Act, an order is made by a court under subsection (3) of that section which includes the transfer to the company of the whole or any part of the undertaking and of the property and liabilities of a transferor company, the order shall include provisions for the taking over, as from such date as may be specified in the order, of any liability for any contribution which has become due and payable under the Scheme (together with any accrued interest thereon) in respect of the employees concerned in the undertaking, property or liability transferred.

[Cap. 124.]

42. Exclusion from application of Cap. T22

The provisions of the Trustee Investment Act shall not apply to any investment made by the Council under this Act.

[Cap. T22.]

43. Reciprocal agreement with other countries

The Federal Government may enter into a reciprocal agreement with the government of any other country in which a Scheme similar to that established by this Act has been established, and the provisions of the agreement shall be read in conformity with the provisions of this Act.

44. Contributions by members of the armed forces and the police

The Federal Government shall be responsible for payment of the contributions in respect of members of the Armed Forces, the Nigerian Police Force, Nigerian Customs Service, Nigeria Immigration Service, Nigeria Prisons Service and such other Federal uniformed services as the Minister may by order in the *Gazette*, specify.

45. Insurance indemnity of health care providers

A health care provider (medical centre, institution or professional) shall be required to take a professional indemnity cover from an insurance company approved by the Council.

46. Establishment of a Standards Committee, etc.

(1) There is hereby established, for the purposes of this Act, a Standards Committee which shall be charged with the responsibility of recommending to the Scheme guidelines

for the maintenance of quality assurance among health maintenance organisations and health care providers under the Scheme and shall consist of-

- (a) a chairman;
- (b) the chairmen of regulatory and registration boards or councils of the health related professional bodies established by law; and
- (c) the registrars of the boards and councils referred to in paragraph (b) of this subsection.

(2) The members of the Standards Committee shall be appointed by the Council.

(3) The Standards Committee may make rules regulating its own proceedings.

47. Power of the Minister to give directives

The Minister may give to the Council directives of a general nature with respect to any of the functions of the Council and it shall be the duty of the Council to comply with such directives or cause them to be complied with.

48. Guidelines

(1) The Scheme may issue guidelines for-

- (a) the registration of employers and employees liable to contribute under the Scheme;
- (b) the registration of dependants of employees covered by the Scheme;
- (c) the compulsory payment of contributions by employers and employees, the rates of those contributions and the deduction by the employer of contributions payable by employees under the Scheme from any salary, wage or other money payable;
- (d) the voluntary payment of contributions by self-employed and other persons and rates of such contributions;
- (e) the maintenance of the records to be kept for the Scheme and the records to be kept by employers in respect of contributions payable under the Scheme and in respect of their employees;
- (f) the methods of collecting contributions under the Scheme by the organisations;
- (g) the imposition of surcharges in respect of late payment of contributions by employers or employees;

- (h) the manner and circumstances in which contributions may be refunded;
- (i) fees which may be charged for medical and dental examinations and services provided and other things done for the purpose of the Scheme;
- (j) the nature and amount of benefits to be provided under the Scheme, the circumstances and the manner in which the benefits shall be provided;
- (k) the nature and amount of capitation payment under the Scheme, the circumstances and the manner in which health care providers shall receive the capitation payment made under the Scheme;
- (l) the reduction, suspension or withdrawal of any payment under the Scheme;
- (m) the submission of returns by employers regarding the employers and their employees;
- (n) the procedure for assessment of contributions made under the Scheme; and
- (o) any other matter whatsoever for which, in the opinion of the Council, it is necessary or desirable to issue guidelines for giving effect to the Scheme.

(2) The guidelines issued under subsection (1) (c) of this section may provide for different levels of contributions to be payable by different classes of persons.

(3) The guidelines issued under this section need not be published in the *Gazette* but the Council shall ensure that they are brought to the notice of the persons affected by the guidelines.

49. Interpretation

In this Act, unless the context otherwise requires-

"Arbitration Board" means the State Health Insurance Arbitration Board or the Federal Capital Territory Health Insurance Arbitration Board constituted under section 26 of this Act;

"benefit" means a benefit or advantage of any kind whatsoever derived from the Scheme;

"capitation payment" means a payment to a health care provider in respect of services to be provided by him to an insured person registered by the health care provider, whether the insured person uses the services or not;

"contribution" means a contribution payable to an organisation under this Act and includes a voluntary contribution;

"Council" means the Governing Council established under section 2 of this Act for the Scheme;

"employee" means any person who is ordinarily resident in Nigeria and is employed in the service of the Federal, State or local government in a civil capacity or in any of the public services or under a contract of service or an apprenticeship with an employer whether the contract is expressed or implied, oral or in writing;

"employer" means an employer registered under the Scheme and includes the Federal, State or local government or any Extra-Ministerial Department or a person with whom an employee has entered into a contract of service or apprenticeship and who is responsible for the payment of the wages or salaries of the employee including the lawful representative, successor or assignee of that person;

"fees for services" means payment made directly for completed health care services, not included in the capitation fees, and paid to health care providers or professionals following appropriate referrals or prescriptions sent to them by health care providers under the Scheme;

"functions" include powers;

"health care provider" means any government or private health care practitioner, hospital or maternity centre registered by the Council for the provision of prescribed health services for insured persons and their dependants under the Scheme;

"insured person" means any person who pays the required contribution to the Scheme under this Act;

"member of the Council" includes the chairman of the Council;

"Minister" means the Minister charged with responsibility for matters relating to health and "Ministry" shall be construed accordingly;

"organisation" means any health maintenance organisation registered under section 19 of this Act and includes institution, body corporate or a provident association registered by the Council to utilise its administration to provide health care services through health care centres approved by the Council;

"public service of the Federation" and "public service of State" have the meaning respectively assigned to them in the Constitution of the Federal Republic of Nigeria 1999;

[Cap. C23.]

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

"wage" means remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be; and whether agreed to be paid at fixed or determined intervals of time-

(a) in respect of normal period of work performed by the employee; or

(b) where payment is calculated in relation to-

(i) set tasks, in respect of the number of tasks completed by the employee; or

(ii) the volume of work completed by the employee, in respect of the volume completed by the worker, but does not include any allowance paid by the employer to the employee whether in respect of cost of living or otherwise howsoever;

"Zonal Office" means a Zonal Health Insurance Office established under section 21 of this Act.

50. Short title

This Act may be cited as the National Health Insurance Scheme Act.

SCHEDULE
[Section 2 (5).]

Supplementary provisions relating to the Council

Standing orders

1. (I) Subject to this Act and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceedings and those of any of its committees.

[Cap. 123.]

(2) The quorum of the Council shall be the chairman or the member presiding at the meeting and five other members and the quorum of any committee of the Council shall be determined by the Council.

2. (I) The Council shall meet not less than three times in each year and subject thereto, the Council shall meet whenever it is summoned by the chairman and if the chairman is required to do so by notice given to him by not less than seven other members, he shall summon a

meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Council, the chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their number to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such period as it thinks fit; but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

3. (1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Council as may be determined by the Council) and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

4. (1) The fixing of the seal of the Scheme shall be authenticated by the signature of the chairman, the Executive Secretary or of any other person authorised generally or specifically to act for that purpose by the Council.

(2) Any contract or instrument, which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by the chairman or any person generally or specially authorised to act for the purpose by the Council.

(3) Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

5. The validity of any proceeding of the Council or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Council or committee, or by any defect in the appointment of a member of the Council or of a committee, or by reason that a person not entitled to do so took part in the proceedings of the Council or committee.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation