ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER N1

NATIONAL HEALTH FUND ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

Act 2/2008, in force 24 August 2011
Act 5/2011, in force 24 August 2011
U.K. S.I. 2019 No. 852, in force 14 May 2019

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NATIONAL HEALTH FUND ACT

PRELIMINARY

Interpretation

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

"Anguillian" means a person who is regarded as an Anguillian under section 80(2) of the Constitution of Anguilla;

(U.K. S.I. 2019 No. 852, s. 13(c))

"approved health care provider" means a provider approved by the Board;

"auditor" means a qualified accountant appointed by the Board to act as an auditor of the Fund;

"Board" means the National Health Fund Board established under section 4;

"contribution" means a contribution payable under this Act, and "contributor" shall be construed accordingly;

"Director" means the Director of the Board appointed under section 7;

"eligible persons" means persons eligible under this Act to access health care services purchased and financed by the Fund;

"employee" means a person employed by an employer in a gainful employment in Anguilla, under a contract of service, whether oral or written, express or implied;

"employer" means any person or body corporate who employs or on whose behalf any other person employs any person under a contract of service, whether oral or written, express or implied; and includes the Government of Anguilla and any government agency;

"employment" includes any trade, business, profession, office or vocation and "employed" shall be construed accordingly;

"Fund" means the National Health Fund established under section 2;

"health care services" means services to be made available to eligible persons under section 23;

"indigent" means a person who has no source of income, or whose income is insufficient for the subsistence of his family, and who is certified as such by the Department of Social Development or its successors;

"Minister" means the Minister responsible for finance unless otherwise specified;

"prescribed" means prescribed by regulations or rules made under this Act;

"provider" means a qualified provider of health care services;

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"self-employed" means occupied in a gainful employment in Anguilla but not employed by an employer under a contract of service;

"Social Security Board" means the Board established by the Social Security Act.

PART 1

ESTABLISHMENT, OBJECTS AND ADMINISTRATION

Establishment of the National Health Fund

2. (1) There is hereby established the National Health Fund, for the purpose of purchasing and financing health care services for eligible persons.

(2) Monies paid into the Fund shall include—

(a) contributions from employers, employees and self-employed persons pursuant to section 18(1)(a);

(b) sums from the Consolidated Fund of the Government of Anguilla pursuant to section 18(1)(b);

(c) any payments made by retired persons and by patients pursuant to section 18(1)(c);

(d) such sums collected under any levies dedicated to this Fund as may be defined in regulations to this Act and approved by the House of Assembly;

(e) all rents, interest or investment or other income derived from the assets of the Fund;

(f) sums properly accruing to the Fund including any donations or grants;

(g) all sums recovered under this Act as fines, penalties or costs;

(h) any other such sums as may be provided by the Consolidated Fund for the purpose of this Act or as may be received and accepted by the Board on behalf of the Fund.

(3) There shall be paid out of the Fund—

(a) moneys solely for the purchasing and financing of health care services for eligible persons;

(b) any refund of contributions;

(c) remuneration or reimbursements of the members of the Board and its committees and co-opted persons;

(d) salaries and allowances to the Director and members of the staff of the Board;

(e) any other expenses properly incurred in the administration of this Act.

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Objects of the Fund

3. (1) Subject to this Act and the regulations, the objects of the Fund are to purchase and finance health care services for eligible persons and to ensure that those services are of good quality, and are provided efficiently and cost effectively.

(2) The health care services to be purchased by the Fund shall be specified by the Fund annually and, notwithstanding subsection (1), the Fund shall not be required at any time to purchase any services that are not so specified or that are specifically excluded.

Establishment of the National Health Fund Board

4. (1) There shall be established a Board, to be called the National Health Fund Board, in which the Fund shall be vested.

(2) The Schedule shall apply in respect of the constitution of the Board and its proceedings.

(3) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of suing and being sued.

(4) The Board shall have a Head Office in Anguilla, and service on the Board of any notice, order or other document shall be executed by delivering the same or by sending the same by post, addressed to the Director at the Head Office.

(5) The seal of the Board shall be kept in the custody of the Director and shall not be affixed to any instrument except by the authority of a resolution of the Board, and the sealing of any instrument shall be authenticated by the signature of the Director and of such other person as the Board may appoint for the purpose.

Powers and functions of the Board

5. (1) Subject to the provisions of this Act, the Board shall be responsible for the control, management and administration of the Fund.

(2) The Board shall have the powers, in the name of the Fund, to perform or cause to be performed all such acts as bodies corporate may do by law including to purchase or otherwise acquire, hold, charge or alienate real or personal property; enter into contracts; and open, maintain and close accounts with any bank in Anguilla holding a licence under the Banking Act[*].

(3) The Board may appoint such committees as it may consider necessary, to examine and report to the Board on any matter arising out of any of its functions under this Act, and the composition and functions of any such committee shall be determined by the Board.

(4) The Board shall consider and advise upon all matters which may from time to time be referred to it by the Minister or by the Minister responsible for health and shall furnish to the relevant Minister such information as he may reasonably require about the operation of this Act.

(5) The Board shall render annual reports to the Minister by 31 March each year and shall send a copy of these reports to the Minister responsible for health, and the Minister shall, as soon as possible after receiving any such report, lay a copy thereof before the House of Assembly.

[*] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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Remuneration of the Board and its committees

6. (1) The Chairman, and each member of the Board in respect of his office as such, shall be paid such remuneration and allowances as the Governor in Council may determine.

(2) Any person co-opted to a meeting of the Board, and any person not being a member of the Board, who serves on a committee of the Board, shall be paid such remuneration and allowances as the Governor in Council may determine upon a recommendation by the Board.

(3) Any remuneration and allowances paid under subsections (1) and (2) shall be a charge on the Fund.

Appointment, powers and duties of the Director

7. (1) The Board shall appoint a fit and proper person to be the executive Director of the Fund on such terms and conditions as the Board may determine.

(2) Subject to the provisions of this Act and any direction by the Minister, the Director shall be charged with the management of the Fund, and the administration and control of the staff of the Board, and in particular—

(a) the collection of contributions under this Act;

(b) the payment of approved providers under this Act and of the expenditure necessary for the administration of the Fund;

(c) the investment of surplus money in the Fund in accordance with the provisions of section 13.

Delegation by the Director

8. (1) The Director may delegate any of his functions under this Act to an employee of the Board, except this power of delegation.

(2) Every delegation under this section may be revocable at will.

(3) Notwithstanding any such delegation under subsection (1), the Director may himself perform any such function so delegated.

Staff of the Board

9. With the approval of the Board, the Director may from time to time appoint persons to be employees of the Board as are necessary for performance of this Act.

Terms and conditions of employment with the Board

10. The terms and conditions of employment of the employees of the Board shall be determined from time to time by the Board.

Secondment of Public Officers

11. (1) The Governor may, acting in his own discretion and subject to such conditions as he may impose, approve the secondment of any public officer for service with the Board as appears necessary for the proper carrying out of its responsibilities and the exercise of its powers under this Act.

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(2) Any public officer seconded under subsection (1) shall, in relation to payment of salary, pension, and gratuity and the like and to other rights and to discipline, be treated as if he or she were not so seconded.

(Act 5/2011, s. 2)

PART 2

FINANCE

Financial operation of the Fund, accounts, audit, etc.

12. (1) Accounts shall be kept of all monies in the Fund in accordance with international accounting standards and shall be audited annually by an independent auditor.

(2) Within 3 months of the end of the financial year, the Director shall submit to the Board a report containing the following in respect of the financial year—

(a) an account of the income and expenditure of the Fund, including details of sources of income and of applications of expenditure detailed by recipient;

(b) a statement of assets and liabilities of the Fund, including details of any investments or securities;

(c) the auditor's report and any recommendations.

(3) Not later than 2 months prior to the end of the financial year, the Director shall submit to the Board estimates of the Board's expenditure for the succeeding financial year.

(4) Within one month of its receipt of the accounts and audit report pursuant to subsection (2), the Board shall submit its annual report of activities including those accounts and audit to the Minister and shall copy the same to the Minister responsible for health, and within one month of its receipt, the Minister shall lay the same before the House of Assembly.

(5) Within one month of its receipt of the estimates of expenditure for the succeeding financial year pursuant to subsection (3), the Board shall submit these estimates including any revisions to the Minister and shall copy the same to the Minister responsible for health.

Investment of money

13. (1) Money in the Fund temporarily surplus to expenditure requirements may be invested in short-term interest bearing bank accounts.

(2) The Board shall not make any investments in or make any loans to any person, body corporate, or other entity whatsoever that may be involved in the provision of health care services, supplies or drugs or any other services or goods that may be purchased by the Fund.

Borrowing powers

14. With the approval of the Governor in Council and to the extent necessary to carry out its functions, the Board may borrow money by way of loan, advance or overdraft.

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Temporary insufficiency of assets

15. (1) The Board shall ensure that disbursement out of the Fund does not exceed the income thereof on an annual basis.

(2) Where there is any temporary insufficiency of the assets of the Fund to meet its liabilities, the Governor in Council may give approval for that insufficiency to be met by an advance out of the Consolidated Fund.

(3) Subject to this Act, any sums advanced under subsection (2) shall be repaid to the Consolidated Fund as soon as may be practicable.

PART 3

ELIGIBILITY FOR HEALTH CARE SERVICES PURCHASED AND FINANCED BY THE FUND

Persons eligible to receive health care services

16. (1) Subject to subsections (2) and (3), persons eligible to receive health care services purchased and financed by the Fund are—

(a) Anguillians ordinarily resident in Anguilla;
(U.K. S.I. 2019 No. 852, s. 13(c))

(b) non-Anguillians employed by the Government of Anguilla or any government agency;
(U.K. S.I. 2019 No. 852, s. 13(c))

(c) non-Anguillians on current work permits;
(U.K. S.I. 2019 No. 852, s. 13(c))

(d) persons listed in paragraphs (a) to (c) who retire and are residing in Anguilla;

who shall make contributions to the Fund at such rates as may be prescribed;

(e) indigents; and

(f) the spouse, child, stepchild or parent of any person referred to in paragraphs (a) to (d), who is living with such person and solely dependent on such person's earnings at the time of receiving any health care services under this Act.

(2) Persons excluded from eligibility are—

(a) Anguillians who by working overseas have not made contributions to the Fund;
(U.K. S.I. 2019 No. 852, s. 13(c))

(b) non-Anguillians retiring to or in Anguilla who have not made contributions to the Fund at the rate prescribed each year, for 5 consecutive years immediately before their retirement date;
(U.K. S.I. 2019 No. 852, s. 13(c))

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(c) visitors to Anguilla.

(3) Anguillians working overseas who intend to retire to Anguilla, can become eligible if they contribute to the Fund at the prevailing rate of contribution declared annually by the Fund for 5 consecutive years immediately before their retirement date, or if they contribute the equivalent in one lump-sum payment upon retiring to Anguilla, but such Anguillians can only become eligible on their retirement date.

(U.K. S.I. 2019 No. 852, s. 13(c))

(4) For the purposes of subsection (3) above, the rate will be set at the average contribution to the Fund i.e. the total annual income to the Fund for the previous year divided by the total number of employed and self-employed contributors.

Identification cards

17. The Fund shall cause to be issued a Fund identification card and number to all eligible persons.

PART 4

CONTRIBUTIONS

Contributors to the Fund

18. (1) Subject to the provisions of this Act, payments into the Fund shall be payable by—

(a) all persons and bodies corporate liable to make contributions under the Social Security Act and its amendments and at a rate to be prescribed by the Minister each year;

(b) the Consolidated Fund at a rate to be determined annually in advance by the Minister upon due consideration of the estimates of expenditure submitted by the Board pursuant to section 12(5);

(c) retired persons eligible to receive health care services pursuant to section 16 and certain classes of patient, at rates as may be prescribed by the Minister each year.

(2) Where contributions are levied under paragraphs (1)(a) and (c), the contributions for indigents shall be paid on their behalf by the Government.

(3) The rates referred to in subsection (1) shall be defined in regulations to this Act and approved by the House of Assembly.

Contribution by employers and employees

19. (1) Except where regulations otherwise provide, an employer liable to pay a contribution in respect of a person employed by him shall be liable to pay also on behalf of and to the exclusion of such person any contribution payable by such person for the same contributory period, and for the purposes of this Act contributions so paid by an employer shall be deemed to be contributions paid by such person.

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(2) Notwithstanding any contract to the contrary, an employer shall not be entitled to deduct from the wages of a person employed by him or otherwise recover from such person the contribution of the employer payable in respect of such person.

(3) An employer shall be entitled, subject to and in accordance with regulations, to recover from the pecuniary remuneration of a person employed by him the amount of any contribution paid or to be paid by him on behalf of such person and, notwithstanding anything in any enactment, such regulations may authorise such recovery to be made by deduction from the wages of such person.

Exemption from liability for, and crediting of, contributions

20. Regulations may provide for exempting employees and their employers from liability to pay contributions for such periods as may be prescribed.

Employment by more than one employer

21. Where an employee is employed successively or concurrently in a contributory week or part of a contributory week by more than one employer, each employer shall be liable to pay to the Fund contributions with respect to the wages paid by each such employer to that person.

Regulations for operation of the Fund

22. Regulations may provide for—

(a) the registration of employees, self-employed persons and other contributors;

(b) the payment and collection of contributions;

(c) the maintenance by employers of records of the payment of contributions;

(d) the return of contributions paid in error; and

(e) any other matters incidental to the payment and collection of contributions under this Act.

PART 5

PURCHASE OF HEALTH CARE SERVICES BY THE FUND

Health care services

23. (1) The Fund shall ensure that health care services shall be made available to eligible persons from approved health care providers, public or private. These services shall include—

(a) primary or first contact services including general medical and clinical practice;

(b) hospital outpatient and inpatient services including diagnostic, treatment and emergency services;

(c) diagnostic including laboratory and other medical examination services;

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provided at such public or private facilities as may be approved by the Board annually for such purposes.

(2) Based on recommendation by the Board, the Minister responsible for health shall make regulations defining these health care services and for the manner in which they may be accessed by eligible persons. These regulations may be revised from time to time and made available to providers and to eligible persons at the offices of the Fund.

(3) Access to hospital services in Anguilla shall be by referral from an approved primary care provider, save for accident and emergency services which may be accessed without such referral.

(4) Access to overseas care purchased by the Fund shall—

(a) subject to paragraph (b), be decided by the Board which shall act on the advice of 2 or more clinical experts; and

(b) in the case of emergency procedures, be by referral from an approved health care provider.

Registration of health care providers

24. (1) The Board shall make rules to establish requirements for the approval of providers in keeping with nationally established standards and norms for providers which, *inter alia*, may require them to—

(a) possess certain professional qualifications and experience;

(b) offer services covering a defined range, and in facilities of an appropriate size and with adequate and acceptable standards of physical structure and equipment;

(c) accept appropriate payment from the Board for services provided to eligible persons;

(d) keep adequate and acceptable patient information and accounting records, and make certain information available to the Fund;

(e) recognise the rights of patients, including the rights of confidentiality; and

(f) adopt defined protocols for the referral of patients between levels of care;

and shall make these rules available to any provider or potential provider upon request.

(2) Approved health care providers shall be registered with the Fund and made known to eligible persons by way of advertisements in newspapers circulating in Anguilla and at the offices of the Fund.

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PART 6

ADJUDICATION AND LEGAL PROCEEDINGS

Determination of questions

25. Any question arising under or in connection with health care services to be provided and entitlement to services, may be determined by the Board, the Director, or a person or tribunal appointed or constituted in such manner as may be prescribed and subject to the provisions of regulations made under this Act, the decision in respect of such question shall be final.

Grievances

26. (1) An eligible person or a provider who is aggrieved by the acts or omission of any person operating under the Fund may seek redress on the following grounds—

(a) any violation of the rights of a patient;

(b) a wilful neglect of duties by the Board or a provider under contract to the Board which results in the loss of, or non-enjoyment of health care services by eligible persons;

(c) unjustifiable delay in making payments to providers;

(d) exclusion from registering as a provider;

(e) any act or omission that undermines or defeats the purpose of the Fund.

(2) Until such time as a separate appeals tribunal is established for the hearing of complaints or grievances in regard to the Fund, the Social Security Decisions and Appeals Regulations, R.R.A. S45-3 shall apply *mutatis mutandis* to the hearing of complaints or grievances under this section, and for the purposes of such Regulations, the grounds specified in subsection (1) shall be treated as grounds under such Regulations.

Offences and penalties

27. (1) Any person who fails to pay, at or within such time as may be prescribed for the purpose, any contribution which he is liable under this Act to pay commits an offence and for each such offence is liable on summary conviction to a fine of $1,000 and, in default of payment of such fine, to imprisonment for a term of one month.

(2) Any employer who deducts or attempts to deduct or otherwise recovers or attempts to recover the whole or any part of the contributions of the employer in respect of his employee from his wages or other remuneration commits an offence and is liable on summary conviction to a fine of $1,000 and, in default of payment of such fine, to imprisonment for a term of one month.

(3) Any eligible person who for the purpose of obtaining any health care services under this Act, whether for himself or some other person, or for any other purpose connected with this Act—

(a) knowingly makes any false statement or false representation; or

(b) produces or furnishes or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular;

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commits an offence and is liable on summary conviction to a fine of $1,000 or to imprisonment for a term of one month.

General provisions as to prosecutions

28. (1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Board or by any officer of the Board authorised in that behalf by special or general directions of the Board.

(2) Any such officer, although not a barrister or a solicitor, may prosecute or conduct before the Magistrate's Court any such proceeding.

(3) Notwithstanding any provision in any enactment fixing the period within which summary proceedings may be commenced, proceedings for an offence under this Act may be commenced at any time within the period of 6 months from the date on which evidence sufficient in the opinion of the Board to justify a prosecution for the offence comes to its knowledge or within the period of 3 years after the commission of the offence, whichever period last expires, and for the purpose of this subsection a certificate purporting to be signed on behalf of the Board as to the date on which such evidence came to its knowledge shall be evidence thereof.

(4) In any proceedings for an offence under this Act, the wife or husband of the accused shall be competent to give evidence against the accused, but the wife or husband shall not be compelled to give evidence or in giving evidence to disclose any communication made to her or him during marriage with the accused.

(5) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, he as well as that body is deemed to be guilty of that offence and is liable to be proceeded against and penalized accordingly.

Recovery of contributions on prosecution

29. (1) In any case where a person has been convicted of an offence under section 27(1) of failing to pay a contribution, he shall in addition to the penalty prescribed in that section be liable to pay to the Fund a sum equal to the amount which he failed to pay.

(2) On any such conviction as is mentioned in subsection (1), if notice of intention to do so has been served with the summons or warrant, evidence may be given of the failure on the part of the person concerned to pay other contributions during the 2 years preceding the date of the offence, and on proof of such failure the persons concerned shall be liable to pay to the Fund a sum equal to the total of all the contributions which he is so proved to have failed to pay.

(3) Where any person is charged with any offence as is mentioned in subsection (1) or (2) and a probation order is made in respect of such offence, subsections (1) and (2) shall apply as if the making of the order were a conviction.

(4) Any sum ordered to be paid to the Fund under this section shall be recoverable as a penalty.

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(5) Any sum paid by an employer under this section shall be treated as a payment in satisfaction of the unpaid contributions and any part of such sum which represents an employee's contribution shall not be recoverable by the employer from the employee.

(6) If an employer being a body corporate fails to pay to the Fund any sum which the employer has been ordered to pay under this section, such sum or part thereof as remains unpaid shall be a debt due to the Fund jointly and severally from any directors of the body corporate who knew or could reasonably be expected to have known of the failure to pay the contribution in question.

(7) Nothing in this section shall be construed as preventing the Board from recovering any sums due to the Fund by means of civil proceedings.

Civil proceedings

30. (1) All sums due to the Fund under this Act shall be recoverable as debts due to the Board and, without prejudice to any other remedy, may be recovered summarily as a civil debt, but any sums due by way of contributions shall, from such date as may be prescribed, bear interest at the rate of 10% per annum or such other rate as may be prescribed.

(2) Proceedings for the summary recovery of sums due to the Fund may, notwithstanding anything in any enactment to the contrary, be brought at any time within 3 years from the time when the matter complained of arose.

(3) Proceedings for the summary recovery of civil debts of sums due to the Fund may be instituted by an officer of the Board authorised in that behalf by special or general directions of the Board, and any such officer may, although not a barrister or a solicitor, conduct such proceedings.

Proceedings for entitlement lost by employer default

31. (1) Where an employer has failed or neglected to pay any contribution which he is liable to pay in respect of or on behalf of an employee, and by reason of such failure or neglect such employee or any other person becomes disentitled to health care services, the Director may, on being satisfied that the contribution should have been paid by the employer, extend entitlement to such services to the employee or the other person as if the failure or neglect had not occurred and the Board shall be entitled to recover from the employer summarily as a civil debt a sum equal to the cost of such services provided or the contributions not paid whichever is the greater.

(2) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Act in respect of the same failure or neglect.

(3) Proceedings under this section may, notwithstanding any enactment to the contrary, be brought at any time within one year after the date on which the employee or other person concerned would, but for the employer's failure or neglect, have been entitled to receive the health care service in question.

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PART 7

MISCELLANEOUS

Crown servants

32. (1) This Act binds the Crown.

(2) This Act shall apply to persons employed by or under the Crown in like manner as if the Crown were a private person, with such modifications as may be made therein by regulation for the purpose of adapting the provisions of this Act to the case of such persons.

Power to make regulations

33. (1) The Minister, or when so specified the Minister responsible for health, may make such regulations as are required by this Act to be made and for matters prescribed.

(2) Such regulations may modify or affect the operation of any provision of this Act in such manner as he may consider necessary or desirable generally for giving effect to the principles of this Act.

(3) Notwithstanding anything to the contrary in any other law, where no penalty is specified for any offence under this Act, regulations may provide for a penalty of $1,000 for each offence being a contravention of or failure to comply with any regulation, or where the offence consists of continuing any such contravention or failure after conviction thereof, $1,000 together with a further $250 for each day on which it is so continued.

(4) Any power conferred by this Act to make regulations may be exercised—

(a) either in relation to all cases to which the power extends or in relation to all such cases subject to specified exceptions or in relation to any specified cases or class of cases; and

(b) so as to make, as represents the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision,

(ii) the same provision for all cases to which the power is exercised, or different provision for different cases, or different provision as respects the same case for different purposes of this Act, or

(iii) any such provision either unconditionally or subject to any specified condition.

(5) Without prejudice to any specified provision of this Act, any regulation may contain such incidental or supplementary provisions as appear to the Minister or to the Minister responsible for health as the case may be, to be expedient for the purposes of the regulations.

Regulations to be laid before the House of Assembly

34. (1) All regulations shall be laid before the House of Assembly as soon as may be after they are made and, if within a period of 30 days beginning with the day on which such regulations are so laid, the House of Assembly resolves that the regulations be annulled, they shall thereupon cease to

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have effect but without prejudice to anything previously done thereunder or to the making of new regulations.

(2) In reckoning any period of 30 days specified in subsection (1), no account shall be taken of any time during which the House of Assembly is dissolved or prorogued or during which the House of Assembly is adjourned for more than 14 days.

Citation

35. This Act may be cited as the National Health Fund Act, Revised Statutes of Anguilla, Chapter N1.

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SCHEDULE

(Section 4(2))

CONSTITUTION AND PROCEEDINGS OF THE BOARD

Composition of the Board

1. (1) The Board shall consist of 5 persons, of whom—

(a) one shall represent the Minister responsible for finance;

(b) one shall have Board level experience in private sector industry, commerce or finance;

(c) one shall represent the Social Security Board;

all of whom shall be appointed by the Minister;

(d) one shall represent the Minister responsible for health;

(e) one shall represent consumers of health care services;

both of whom shall be appointed by the Minister responsible for health.

(2) In making the appointments under subsection (1), the Minister or the Minister responsible for health as the case may be, may consult such persons as he considers fit.

(3) Persons shall be able to speak fairly for those they represent, but shall be selected based on their assessed capacity to operate effectively in a non-executive role and to ensure that the objects and interests of the Fund are pursued at all times. Members of the House of Assembly shall not be eligible for appointment to the Board. Individuals active in providing health care services or supplies or who in any way could benefit financially from provision of such services or supplies shall not be eligible for appointment to the Board.

Designation of Chairman

2. The Minister shall designate one member of the Board to be the Chairman. In the absence of the Chairman at any meeting of the Board, the members of the Board present shall elect an Acting Chairman from their members to function as such for that meeting.

Term of representative members

3. The representative members of the Board shall hold office for such period not exceeding 3 years as may be determined by the Minister. Any member of the Board shall be eligible for re-appointment.

Resignation and vacancy

4. A member of the Board may at any time, by notice in writing addressed to the respective Minister who appointed him, resign his office; and if a member becomes in the opinion of that Minister, unfit to continue in office or incapable of performing his duties, that Minister shall in such manner as he thinks fit declare the office of the member vacant.

Quorum

5. The quorum for any meeting of the Board shall be 3 including the Chairman or Acting Chairman and the Board may act notwithstanding any vacancy in its membership.

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Substitute member

6. A substitute member may be appointed by the respective appointing Minister, for any one meeting which a member is unable to attend.

Voting

7. The decision of the Board shall be by majority of votes; the Chairman of the meeting shall have a deliberative vote and in the event of an equality of votes shall have an additional or casting vote.

Minutes

8. Minutes of each meeting shall be kept in proper form by such officer of the Board as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the Chairman or Acting Chairman, as the case may be.

Co-option

9. The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of advising or assisting the Board, but no such co-opted person shall have any right to vote.

Conflict of interest

10. If any member of the Board or other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matter, he shall, at the meeting and as soon as is practicable after the commencement of the meeting, disclose the fact of his interest and shall not take part in the discussion, consideration or voting on such contract or other matter.

Board may determine procedure

11. Subject to the provisions of this Act, the Board shall have power to regulate its own proceedings.

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