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INSURANCE (AMENDMENT) ACT, 2016

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No. 38 of 2016

INSURANCE (AMENDMENT) ACT, 2016

AN ACT TO AMEND THE INSURANCE ACT TO FACILITATE THE IMPLEMENTATION OF A NATIONAL HEALTH INSURANCE PLAN

[Date of Assent - 22nd December, 2016]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Insurance Act (*Ch. 347*), may be cited as the Insurance (Amendment) Act, 2016.
- (2) This Act shall come into force on such date as the Minister may appoint by notice published in the *Gazette*.

2. Amendment of section 10 of the principal Act.

Section 10 of the principal Act is amended by the insertion immediately after paragraph (d) of a new paragraph (dd) as follows —

“(dd) any moneys as from time to time are transferred to the Commission from the National Health Insurance Authority in accordance with the National Health Insurance Act, 2016;”.

3. Amendment of section 24 of the principal Act.

Section 24 of the principal Act is amended by the insertion immediately after paragraph (1) of the following —

“(1A) The provisions of subsection (1) shall not apply to the National Health Insurance Plan established under the National Health Insurance Act, 2016.”.

4. Insertion of new Part VIA into the principal Act.

The principal Act is amended by the insertion immediately after section 198 of a the following new part —

“PART VIA – REGULATED HEALTH ADMINISTRATORS

198A. Interpretation.

In this Part —

“**Authority**” means the National Health Insurance Authority established under the National Health Insurance Act, 2016;

“**beneficiary**” has the same meaning assigned in the National Health Insurance Act, 2016;

“**regulated health administrator**” or “**Administrator**” has the same meaning assigned in the National Health Insurance Act, 2016;

“**Plan**” means the National Health Insurance Plan established under the National Health Insurance Act, 2016.

198B. Certification of Regulated Health Administrators.

- (1) A long-term insurance company registered to carry on sickness or health insurance business in accordance with this Act, who wishes to administer benefits in accordance with the National Health Insurance Act must —
 - (a) make application in the form and manner prescribed; and
 - (b) pay the prescribed fee,to be certified as a regulated health administrator.
- (2) The Commission may upon approval of an application, certify an insurer described in subsection (1) as an Administrator in accordance with this Act for the purpose of the National Health Insurance Act, 2016 for —
 - (a) a period of twelve months unconditionally; or
 - (b) a period of twelve months, subject to such conditions as the Commission considers appropriate.
- (3) The Commission shall issue written notification to the applicant and the Authority of its decision, and where the Commission has denied the application, the Commission shall give its reasons for so doing and the applicant shall have a right of appeal against the decision of the Commission pursuant to section 228 of the Insurance Act.
- (4) The Commission shall, upon the grant of certification issue to the applicant a certificate in the manner and form determined by the Commission.

- (5) The Commission shall, in consultation with the Authority, make regulations establishing the criteria and process for certification by the Commission of an Administrator.

198C. Notification of change in particulars.

An Administrator must notify the Commission of a material change in any of the particulars specified in the application for certification within thirty days of such change.

198D. Suspension of certification.

- (1) Subject to subsection (2), the Commission may suspend the certification of an Administrator where the Commission is satisfied that the Administrator is in breach of any provision of this Act.
- (2) The Commission shall, before suspending the certification of an Administrator under subsection (1), notify the Administrator in writing that the Commission intends to suspend its certification giving reasons.
- (3) Where an Administrator fails to remedy a breach in accordance with the requirements of a notice under subsection (2), the Commission may —
 - (a) suspend the Administrator's certification; or
 - (b) extend the period specified in the notice.
- (4) The Commission must on suspension of an Administrator's certification under this section, notify in writing the Administrator and the Authority of such suspension.

198E. Cancellation of certification.

- (1) The Commission may cancel the certification of an Administrator where —
 - (a) the Administrator has violated or no longer satisfies a requirement for certification as an Administrator or a condition to which such certification was made subject; or
 - (b) any of the reasons specified in section 34(2) applies; or
 - (c) the Administrator has done or caused to be done any act that, in the Commission's discretion, justifies the cancellation of the certification.
- (2) Where the Commission cancels an Administrator's certification, the Commission shall —
 - (a) notify the Administrator in writing of the Commission's decision to cancel its certification, giving reasons for doing so; and

- (b) notify the Administrator of its right to request reconsideration by the Commission and its right of appeal to the Supreme Court under section 228.
- (3) The Commission shall, on cancellation of an Administrator's certification under this section, notify in writing the Authority of such cancellation.
- (4) An Administrator whose certification is cancelled by the Commission —
 - (a) shall not accept any new or renewed enrolments under the Plan; and
 - (b) must continue to comply with the requirements of this Act as may be required to discharge its liabilities in respect of the provision of benefits under the National Health Insurance Act, 2016.

198F. Effects of cancellation of certification.

- (1) Notwithstanding any provision of the National Health Insurance Act, 2016 upon the cancellation of the certification of an Administrator under section 198E, the Administrator may lawfully continue to carry on business as an Administrator for individuals enrolled before the date on which the Administrator is notified of the cancellation and the Administrator shall continue to carry on such business in accordance with its agreement with the Authority, unless the Commission is satisfied that the Administrator has made suitable arrangements elsewhere for its obligations to such individuals to be met.
- (2) Nothing in subsection (1) shall be taken as authorising the renewal after the date of notification of cancellation of any enrolment that occurred before such date and, where any such enrolment is renewed after the date of notification of cancellation, the Administrator shall be in contravention of subsection (1).
- (3) A person who contravenes any provision of subsection (1) commits an offence and is liable on summary conviction to the penalties provided for in sections 237 and 238.

198G. Investigations by the Commission.

The Commission shall conduct investigations to ensure compliance with the provisions of this Part in accordance with the Commission's powers under sections 69 through 75.

198H. Administrative fines and sanctions.

- (1) The Commission may, where it is satisfied that an Administrator is in breach of the requirements or a condition of certification under section 198B, or is otherwise in contravention of a provision of this Part, impose on the Administrator —
 - (a) an administrative fine in accordance with subsection (2);
 - (b) sanctions in accordance with subsection (4); or (c) both a fine and sanctions.
- (2) An administrative fine imposed under subsection (1) shall —
 - (a) be made by the Commission by order in writing and given to the Administrator;
 - (b) specify the breach or contravention committed by the Administrator;
 - (c) not exceed the sums specified in section 237 in relation to offences;
 - (d) specify the amount of the fine imposed and the time period within which it must be paid in full; and
 - (e) be enforceable in the same manner as an order of the court.
- (3) Where a breach or contravention referred to in subsection (1) also constitutes an offence under this Act —
 - (a) the imposition of an administrative fine by the Commission shall be an alternative to prosecution for such offence; and
 - (b) on payment of the fine as ordered by the Commission, the Administrator shall no longer be liable to prosecution in respect of the offence.
- (4) Sanctions imposed by the Commission under subsection (1) may include any one or more of the penalties referred to in section 238.

1981. Determination of questions and grievances.

- (1) An Administrator aggrieved by a decision of the Commission must file a complaint in the form and manner prescribed in regulations.
- (2) The Commission shall determine in a timely manner as prescribed in regulations all complaints filed with the Commission under subsection (1).
- (3) The Commission may make regulations prescribing the procedures to be followed in the determination of complaints filed with the Commission by an Administrator under the Plan.”.