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**TO: NATIONAL HEALTH INSURANCE FUND (NHIF)**  
**FROM: THE FEDERATION OF KENYA EMPLOYERS (FKE)**

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## **FKE MEMORANDUM NHIF (AMENDMENT) ACT 2022– REGULATIONS**

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### **1. BACKGROUND**

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The Federation of Kenya Employers (FKE) is the most representative employers' organization in Kenya. The Federation has 4000 members who employ a total of 1.2 million employees. The role of the Federation is to build the capacity of employers and to influence the business environment for employers through advocacy, effective representation, social dialogue, and provision of value-add services. In addition to representing Kenya employers at local level, the Federation also represents members at regional and international level including at East Africa Employers Organization, BUSINESSAfrica-Employers Confederation, and International Organization of Employers (IOE), and International Labour Organization (ILO), and other global forums.

In taking a policy position, FKE is guided with the need to ensure a balanced and sustainable policy position that promotes:

- Kenya's socio-economic development
- Accelerated job creation
- Enterprise development
- Fair labour practices
- Resilient and competitive businesses
- Harmonious industrial relation.
- Social justice
- Feasibility and affordability of the costs associated with implementation of the policy

The above guided FKE position on NHIF (Amendment) Act, 2022 and its position in the Regulations proposed to be gazetted.

## 2. UNIVERSAL HEALTH COVERAGE: FKE PERSPECTIVE

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The right to health is a fundamental human right guaranteed in the Constitution of Kenya. **Article 43 (1) (a)** of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care.

Universal Health Coverage (UHC) has become a matter of national interest and is one of the Big 4 Agenda priority areas by the current administration. UHC advances 3 areas;

- 1) Expansion of health services
- 2) Inclusion of all persons
- 3) Reduction of out-of-pocket payments at the point of accessing health services

The effort to provide UHC in Kenya is noble and the Federation supports the overall objective of granting every person in Kenya their fundamental right to health. The Federation understands that the realization of this objective requires a concerted effort of all parties: Government, employers, workers, health care providers and other stakeholders in the health sector, stakeholders in the insurance sector, and the public.

To actualize the attainment of UHC in the country, the following components of health system ought to be carefully and deeply considered:

- 1) Health service delivery
- 2) Human resource for health
- 3) Health information system
- 4) Health financing**
- 5) Essential medical products and technologies
- 6) Leadership and governance in health**

## 3. STAKEHOLDERS ENGAGEMENT

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Stakeholder engagement envisioned by the constitution and the tripartite arrangements is supposed to be meaningful and should help the parties come up with win-win solutions to the issues they face. Engagements for the sake of ticking the box is an issue employers noted with dismay, noting the critical role it is expected to play in the implementation of the Act and the regulations therein. The employers' concerns need to be considered so that win-win solutions are arrived at. The employers have noted with concern that their submissions and concerns they raise are ignored by the Board and the promises the Board makes to look into the issues are never honoured. This makes engagement with NHIF meaningless.

#### **4. PROPOSED CONTRIBUTION RATES**

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The contributions need meaningful engagement and consultations with employers and workers before proposals are made. There are also established norms in the labour sector that need to be respected when setting up the rates.

#### **5. PROPOSED REGULATIONS**

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There needs to be first engagements with the employers on the substantive Act before engagements on the regulations. NHIF Board needs first to make employers understand their role in the amended Act and the implication before the employers can engage in the discussion on the regulations. The proposals are weighty and therefore require a clear structure of engagement that will ensure employers submissions are taken on board in the decisions that are made

#### **6. FKE'S POSITION**

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The position of the Federation with respect to the UHC, NHIF Stakeholder engagement, proposed NHIF contribution rates, proposed NHIF regulations and NHIF reforms has not changed from its previous submissions which NHIF has intentionally chosen to ignore. The proposed changes in NHIF have major and unsustainable cost implications for employers and the Federation does not agree to the proposed changes.

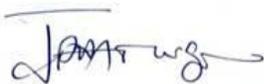
During the earlier inconclusive consultative meeting with NHIF, the NHIF Board promised and committed to have a constructive follow up discussion with the Federation upon completion of the expert study that NHIF was conducting. NHIF never honoured this commitment and instead chose to ignore the employers as it advanced reforms on NHIF.

#### **7. EMPLOYERS ASK AND PROPOSED WAY FORWARD**

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The Federation of Kenya Employers humbly requests that employers' views be taken into consideration and the Regulations be frozen pending further consultations. The Federation further asks the NHIF Board to set up a meaningful engagement mechanism with employers before advancing any of the proposed regulations. In addition, NHIF should first engage Employers on understanding the NHIF Reforms, and the amended Act, including NHIF understanding the implication of the Act on employers and the labour sector.

Signed for and on behalf of the  
FEDERATION OF KENYA EMPLOYERS



**JACQUELINE MUGO (MRS), EBS, MBS, OGW**  
**EXECUTIVE DIRECTOR&CEO**

10/03/2022