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MANDERA COUNTY BILLS, 2023

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**THE MANDERA COUNTY HEALTH SERVICES IMPROVEMENT
FINANCING BILL, 2023**

A Bill for

**AN ACT of the County Assembly of Mandera to provide for the
County health facilities improvement financing and provide for
the administration and management of county health services
improvement financing and for connected purposes**

ENACTED by the County Assembly of Mandera, as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Mandera County Health Services Improvement Financing Act, 2023.

Interpretation

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

“AIE” means authority to incur expenditure;

“Chief Officer” means the county chief officer responsible for medical services;

“Directors of Health Services” means the County Director of Medical Services appointed by the County Public Service Board;

“Dispensary” means health facility at level 2 providing basic health services;

“Entity” means county department of health or health facility or public health unit declared to be a county government entity under section 5(1) of the Public Finance Management Act (2012);

“Executive committee member” means the County Executive Committee Member responsible for health;

“Facility management committee” means the health center and dispensary committee as constituted and gazetted from time to time;

“Health Facility management team” means the administrative team that manages the day to day running of levels 3 and 2 health facilities in the County;

“Health center” means a health facility at level 3 providing basic and essential/comprehensive health services;

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“County Health facility” includes county and Sub-County hospitals, health Centres, dispensaries and any other public health entity registered to provide health services;

“Health Facility Improvement Financing” hereinafter referred to as Health Improvement Financing, means revenue collected, retained, planned for and used by a hospital, health center or dispensary, and public health offices as user fees paid to defray costs of running and maintaining health entities;

“Hospital” includes county and Sub-County health facilities at levels 5 and 4 respectively;

“Hospital management team” means the executive management of the hospitals as currently constituted;

“Hospital Management Board” means the members constituted and gazetted from time to time;

“Hospital In-Charge” means Chief Executive Officer for the county level 5 Hospitals or Medical Superintendent for level 4 hospitals;

“Operational and management costs” includes planned and budgeted activities by County health facilities.

“Public Health services” includes all public health services that are of promotive and preventive in nature being delivered at the primary care levels;

“Expenditure committee” means a committee constituted by the Chief Officer to receive, interrogate and approve the plans and budgets from health facilities and public health offices;

“Waiver” means a release from payment after meeting a certain criterion set in regulations by the Executive member;

“Exemptions” means exemptions in accordance to national policies;

Objects and purposes of the Act

3. The objects and purposes of this Act is to—
- (a) provide a framework in line with section 109 (2) (b) of the PFM Act, 2012 to allow the county health facilities to retain revenue collected for defraying operational and maintenance costs;
 - (b) provide for appropriate governance framework that will support the County Health facilities in improving efficiency and effectiveness, and ultimately quality health service delivery;
 - (c) promote equitable health facilities improvement financing; and

- (d) provide for the appropriation, management and use of retained health services revenue to supplement operations and facilitate quality health service delivery.

Principles of the county health improvement financing

4. The following principles shall guide the implementation of this Act—

- (a) health services shall be available, accessible, acceptable, affordable and of good quality and standard;
- (b) accountability, transparency and integrity shall be upheld, observed, promoted and protected in the collection, management and use of revenue;
- (c) Equity in distribution of health fund among service provisions units;
- (d) The health fund money shall be used in a prudent and responsible way;
- (e) financial management shall be responsible, and fiscal reporting shall be clear;
- (f) Utilisation of sound cash management system, procedures and processes to ensure efficient and effective banking and cash management practices;
- (g) Cost effectiveness and efficiency in service delivery; and
- (h) Non-discrimination.

Application of the Act

5. This Act applies to the following county entities—

- (a) County referral hospitals;
- (b) Sub-County hospitals;
- (c) Health Centres;
- (d) Dispensaries; and
- (e) Public Health services
- (f) any other public health entities as may be conferred on them as such by this Act or any other legislation.

PART II – COUNTY HEALTH SERVICES IMPROVEMENT FINANCING

Sources of the Health Services Improvement Financing

6. The Health Services Improvement Financing shall consist of—
- (a) monies appropriated by the County Assembly;
 - (b) monies received as user fees and charges;
 - (c) monies received as capitation or reimbursement for services prescribed in the National Health Insurance Schemes Act and or from any other insurance provider.
 - (d) Income received through licensing or user fee in relation to any function or activity under public or environmental health department;
 - (e) voluntary contributions from public officers and private persons;
 - (f) grants and donations from other County public entities such as the municipalities and water companies;
 - (g) grants and donations from government parastatals, non-state entities, public and private companies and businesses;
 - (h) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods; and
 - (i) any other sums of money earned by the health institutions in execution of their mandate.

Functions of the Health services Improvement Financing

7. The Improvement Financing shall—
- (a) enable the county entities to collect and retain revenue paid as user fees in order to defray costs of running the respective county entity;
 - (b) finance the respective entities' operational and management costs;
 - (c) provide readily available financial resources for optimal operations of the county entities all year round;
 - (d) improve daily entities operations and promote improved access to health services to all county residents;

- (e) increase, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (f) enable county entities to budget and utilize collected revenue in line with the Public Finance Management Act (2012);
- (g) Support community level health services;

PART III— MANAGEMENT AND ADMINISTRATION OF THE COUNTY HEALTH SERVICES IMPROVEMENT FINANCING

Role of the Chief Officer

8. (1) The Chief Officer as the accounting officer shall—
- (a) ensure annual work plans and budgets from county health entities are reflected in the County annual budget;
 - (b) set up a standing expenditure committee drawn from CHMT to review and advise on the Health Services Improvement Financing budgets by 10th of the first month at the beginning of every quarter;
 - (c) issue AIEs to all facility in-charges and public health offices for purposes of spending the Health Services Improvement Financing;
 - (d) approve all county appropriation for county entities;
 - (e) Review and forward monthly, quarterly and annual financial reports to County Treasury;
 - (f) receive and review performance reports;
 - (g) monitor the implementation of the Health Services Improvement Financing in the county health entities;
 - (h) Set performance metrics to guide to track the performance of county health entities and related purposes; and
 - (i) Set and communicate budget ceilings on amounts to be allocated to county health entities annually.

Establishment of County Health Management Team

9. (1) There is established a County Health Management Team;
- (2) The county health management team shall be appointed by the Executive Committee Member as follows—
- (a) the County Director of Health, who shall be the Chairperson;

- (b) the administrative officer of the department, who shall be the secretary to the team; and
- (c) all programmes, section or unit heads within the health department.

Functions of the County Health Management Team

10. (1) The county health management team shall, in relation to facility improvement financing, perform the following functions—

- (a) co-ordinating and overseeing maintenance of standards on quality, performance, coordination and regulation, and control of all county health and private sectors in the county;
- (b) reviewing, monitoring the implementation and advising the County Department of Health on appropriate measures to be adopted for effective implementation of relevant national and county legislation and policies;
- (c) co-ordinating, supporting, and supervising the planning, implementation, monitoring, and evaluation of technical and managerial activities for health services in the county;
- (d) ensuring that good governance and management standards are applied within facilities and in the relations between facilities;
- (e) supporting Sub-County health management teams and facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (f) reviewing and approving the consolidated facility plans submitted by Sub-County hospitals;
- (g) providing support and supervision to the management of county health facilities;
- (h) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (i) making due provision and developing criteria to compensate health care facilities for debts arising through failure to secure payment for bills, or from non-payment of treatment of indigent users;
- (j) checking the accuracy and timeliness of all financial reports submitted by the Sub-County health facility management team to facilitate prompt approval of spending by facilities;

- (k) ensuring that available qualified human resources are equitably deployed for capacity building needs are assessed and any identified gaps effectively addressed, including disciplinary measures;
- (l) ensuring an efficient and effective vertical and horizontal flow of information;
- (m) reviewing and approving annual financial statements and reports before submission to the Chief Officer of Health; and
- (n) Ensuring that health facilities are adequately resourced in terms of budgetary provisions, health products and technologies, equipment and human resources.

Establishment, Composition and Role of the Hospital Management Team

11. (1) Every hospital in the County shall have a Hospital Management Team,

(2) The Hospital Management Team shall, comprise of—

- (a) Hospital In-Charge;
- (b) The hospital administrator; and the hospital accountant and the hospital accountant; and
- (c) All the departmental heads.

(3) The Hospitals management team shall, in relation to Health Services Improvement Financing—

- (a) prepare and present the annual hospital work-plan and budget;
- (b) prepare and present the hospital quarterly budgets;
- (c) prepare monthly, quarterly and annual financial reports;
- (d) monitor the performance target of the Health Services Financing;
- (e) monitor the achievement of the health service delivery indicators;
- (f) prepare and present a performance report for (d) and (e) above as per the prescribed format;
- (g) undertake resource mobilisation for the hospital;
- (h) ensure efficient and effective utilization of resource paid into the Health Services Financing;

- (i) ensure internal audits are periodically undertaken to mitigate financial risks; and
- (j) ensure external audits are undertaken on a timely basis.

(4) The Chief Executive Officer for level 5 Hospitals shall be competitively recruited and gazette by the County Public Service Board.

Establishment and membership of Hospital Management Boards

12. (1) The Executive Committee Member shall establish management Boards for each Hospital facility in the county.

(2) Each Board shall consist of not more than seven members constituted as follows—

- (a) A chairperson;
- (b) The Chief Executive Officer or Medical superintendent who shall be the secretary to the Board;
- (c) The following persons appointed by the CECM-Health—
 - (i) One person with experience in finance and administration from within the Sub-County;
 - (ii) One person representing youth and people with disability;
 - (iii) 4 persons to represent community interests from business community, non-state actors, women and religious groups.

Qualification of the Hospital Management Boards

13. (1) The appointment of the chairperson shall be subject to the following requirements—

- (a) Atleast 5 years' experience in management position;
- (b) satisfying the requirements of Chapter Six of the Constitution; and
- (c) holding a minimum of a bachelor's degree from a university recognized in Kenya.

(2) The appointment of the board members shall be subject to the following requirements—

- (a) Atleast 3 years' experience in management position;
- (b) satisfying the requirements of Chapter Six of the Constitution; holding a minimum of a bachelor's degree from a university recognized in Kenya;

- (c) Must be a bona fide resident of the town where the hospital is located; and
- (d) The appointment of the board members shall comply with the two-thirds gender requirement.

Terms of Office and termination of membership of the Hospital Management Boards

14. (1) The chairperson and members of the Board shall hold office for a period of three years but shall be eligible for re-appointment for one further term.

- (2) A member shall vacate his/her position as a member of the Hospital Management Board if he/she—
 - (a) is absent from three (3) consecutive meetings of the Board; without prior notice to the Chairperson and without good cause
 - (b) violates Chapter 6 of the Constitution;
 - (c) ceases to be a Kenyan citizen;
 - (d) voluntarily resigns from committee; or
 - (e) dies.

Role of the Hospitals Management Board

15. (1) The Hospital Management Board shall be appointed and gazetted by the Executive Member;

(2) The Hospital Management Board shall, in relation to the Health Services Improvement Financing—

- (a) approve budgets, programmes and plans of the Hospital;
- (b) considers and submit for approval to the Chief Officer annual work plan and budgets;
- (c) considers and submit for approval to the Chief Officer for approval of the hospital quarterly budgets;
- (d) ensure the quarterly implementation plans and budgets are based on available resources
- (e) formulate strategies on resource mobilization for the hospitals;
- (f) monitor the utilization of Health Services Improvement Financing;
- (g) approve the facility performance reports referred in section 8 (1) (f) and forward to the Chief Officer;

- (h) take corrective action in relation to implementation challenges identified that hinder efficient collection and absorption of funds;
- (i) Oversight all financial procedures and reporting requirements are met by the hospital management teams and conform to the Public Finance Management Act (2012) and related regulations;
- (j) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;
- (k) make policy recommendations on the use of the Health Improvement Financing;
- (l) guide the hospital fees, charges, unit costs, exemptions and waivers as prescribed by the Executive Committee member for health;
- (m) receive the audit report and respond to management queries.
- (n) ensure public awareness on administration of the county Health Services Improvement Financing through public participation during annual planning and budgeting.
- (o) Liaison between health facility management team and community to strengthen the delivery of quality health services.
- (p) resolve any conflicts that arise amongst hospital units whose nature is the allocation of resources; and
- (q) Determine such number of standing committees and composition of ad hoc committees.

Establishment and role of the Health Centres and Dispensaries Health Management Team

16. (1) There shall be established a Health Facility Management Team which shall comprise of the health facility in-charge and all the section or unit heads.

(2) the role of the Health Centres and Dispensaries' HMT, in relation to Improvement Financing includes—

- (a) oversee the overall management of the health facility with collaboration from the Health Facility Management Committee;
- (b) prepare and present the annual work-plan and budget;
- (c) prepare and present the quarterly budget;
- (d) prepare monthly, quarterly and annual financial reports;

- (e) monitor the performance target of the Health Services Financing;
- (f) monitor the achievement of the health service delivery indicators;
- (g) prepare and present a performance report for (e) and (f) above;
- (h) undertake resource mobilisation for health service provision in levels I, II and III;
- (i) ensure efficient and effective utilization of resource paid into the Health Services Improvement Financing;
- (j) ensure external audits are undertaken on a timely basis.

Establishment of Health Facility Management Committee

17. (1) The Executive Committee Member shall establish Health Facility Management Committees for each health facility.

(2) The Committee shall manage health centres and dispensaries, being Level 3 and Level 2 facilities respectively.

- (3) The membership of the committee shall be seven members.
- (4) The committees shall consist of—
 - (a) The facility in-charge who shall be the secretary of the Committee;
 - (b) A representative from the Community Health Committee;
 - (c) 5 persons representing the community from business community, youth, people with disability, women and religious groups; and
 - (d) The appointment of the Committee shall comply with the two thirds gender requirement.

Qualifications for appointment of HFMC members

18. (1) a person shall be eligible for appointment as a member of Health Facility Management Committee if the person is—

- (a) An adult of sound mind and good standing in the community;
- (b) He/she should be a resident in the area;
- (c) Ability to read and write at least in one national language
- (d) should hold at least a form four level certificate;
- (e) demonstrated leadership qualities; and

(f) demonstrated commitment to community service.

(2) The term of members of a HFMC is 3 years, and may be renewable once for a further one term.

(3) The executive member shall ensure that at least one-third of the HFMC members are continuing members.

Role of the Health Facility Management Committee

19. (1) The Facility Committee shall, in relation to the Health Services Improvement Financing—

- (a) considers and submit for approval to the Chief Officer annual facility work plan and budgets;
- (b) considers and submit for approval to the Chief Officer the facility quarterly budgets;
- (c) ensure the quarterly implementation plans and budgets are based on available resources;
- (d) monitor the utilization of Health Services Improvement Financing; and take corrective action in relation to implementation challenges identified that hinder efficient absorption of funds;
- (e) ensure all financial procedures and reporting requirements are met by the facility-in-charges and conform to the public finance management regulations;
- (f) ensure all financial procedures and reporting requirements are met by the hospital management teams and conform to the County Public Finance Management Regulations;
- (g) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;
- (h) ensure public awareness on administration of the county Health Services Improvement Financing through public participation during annual planning and budgeting;
- (i) receive the audit report; and initiate response to management queries; and
- (j) Liaison between health facility management team and community to strengthen delivery of quality health services.

Role of the Sub- County Health Management Team on Public Health Financing

20. (1) The Sub-County health management team shall, in relation to the Health Services Improvement Financing—

- (a) supporting health facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (b) review the annual work plan and budget of the public health unit;
- (c) review and present the quarterly budgets to the Chief officer for approval;
- (d) review public health unit monthly, quarterly and annual financial reports;
- (e) monitor public health performance targets of the Health Services Improvement Financing;
- (f) monitor the achievement of the public health service delivery indicators;
- (g) undertake resource mobilization for public health support.
- (h) ensure efficient and effective utilization of resource paid into the Health Services Improvement Financing public health account.
- (i) Receive the external and internal audit reports;
- (j) reviewing and consolidating plans submitted by health facility management teams;
- (k) consolidating and sending annual and quarterly facility budgets to the County Health Management Team for approval by the Department of Health; and
- (l) Checking the accuracy and timeliness of all financial reports submitted by the Hospital Management Team in order to facilitate prompt release of quarterly funds.

Composition of Sub –county Health Management Team

21. The Sub- County Health Management team shall comprise of the following—

- (a) Sub-County health officer;
- (b) Sub-County health administrator;
- (c) Sub-County public health officer;

- (d) Sub-County public health nurse; and
- (e) Sub-County health information and records officer.

Collections from level 4 and 5 Hospitals

22. (1) Revenues generated at Level 4 and 5 Hospitals shall be retained at 100%.

(2) subject to approval by the County Assembly, the County health facilities shall impose such user charges for different health services provided by Health Service Unit.

(3) The person in-charge of levels 4 and 5 Hospitals may, upon investigation and for documented reasons, waive the user charges payable by a particular person.

(4) The County Executive Committee Member in consultation with hospital management board may from time to time review the user charges.

Utilization of the facility Fund

23. (1) An Officer In-Charge of Hospital or Health Facility may utilize the Fund to—

- (a) purchase medical supplies;
- (b) maintain the Hospitals and Health Facilities;
- (c) purchase Hospital equipment;
- (d) hire temporary professionals or other staff for the Hospital or Health Facility;
- (e) improve the capacity of staff to offer health services including training and continuous professional development;
- (f) pay for basic administrative expenses; and
- (g) undertake any other activity that is approved by the Hospital Board or Health Facility Committee.

(2) 25% of the revenue collected by level 4 and 5 Hospitals shall be used for development.

(3) Every Sub County hospital shall give 10% of their quarterly revenue collections to the Sub County Health Office for support of primary health care activities.

(4) The Mandera County Referral hospitals shall give 5% of their quarterly revenue collections to the County Health Management Team for support services.

(5) Mandera County Referral hospitals shall give 2.5% of their quarterly revenue collections to Mandera East Sub County Health Office for the support of primary health care activities.

(6) 2.5% of the revenue generated from level 4 and 5 hospitals shall support the health Executive office and the office of the chief officers.

Collections from level 3 and 2 health facilities

24. (1) Level 2 and level 3 health facilities shall, with respect to the finances collected, retain 100%.

(2) 25% of the revenue collected by level 2 and 3 health facilities shall be used for development.

(3) 25% of the revenue collected by level 2 and 3 health facilities shall be used for level 1 support activities.

Collections from public health services

25. (1) County Public Health Unit shall, with respect to the finances collected, retain 100% to facilitate public health work within the Sub County.

(2) Public health services will utilize 75% of the total collected revenues for its operations.

(3) 25% of the collected revenue shall be utilized by the Sub-County health management team for supportive supervision.

PART IV— FINANCIAL PROVISIONS

Bank account for the Health Services Improvement Financing

26. (1) There shall be opened and operated a bank account for every entity into which all monies received for the Health Services Improvement Financing shall be paid.

(2) With respect to the hospitals, mandatory signatories to the bank accounts shall be the Hospital-In-Charge.

(3) With respect to the hospitals the second signatory shall either be the Hospital Administrator and/or the hospital accountant.

(4) With respect to the health centres and dispensaries, the mandatory signatory to the bank account shall be the Facility-in-Charge.

(5) With respect to the health centres and dispensaries the second signatory shall either be the Chair or the treasurer of the health facility management committee.

Authority to Incur Expenditure (AIEs)

27. (1) The Chief Officer shall be the accounting officer.
- (2) The user departments will identify their needs and submit their requests to the Health Facility Management Team.
- (3) Costing of the requirements will be established and requests evaluated by the Health Facility Management Teams based on available funds/revenues.
- (4) The Health Facility Management Team will determine the ceilings to allow respective departments share available resources.
- (5) Departments will adjust their requirements according to available resources.
- (6) The Health Facility Management Team through the facility-in-charge will submit the proposed budget for consideration by the Hospital Board / Health Facility Management Committees.
- (7) Upon consideration, of the proposed budgets, the Hospital Board / Health Facility Management Committee will approve the budgets with or without amendments as necessary, signed copies of the minutes will then be forwarded to the Chief Officer for the issuance of the AIEs.

Expenditure of the Health Services Improvement Financing

28. (1) Upon issuance of AIE to the health facility in charge, the user department shall raise vouchers for payment for services or procurement of commodities.
- (2) The vouchers shall be prepared, verified, confirmed and preserved in accordance with the PFM Act, 2012 regulations.
- (3) Where applicable, IFMIS shall be used as the primary accounting platform for the county health entities.
- (4) All county health entities shall not expend any finances without express authority to incur expenditures.
- (5) The Chief Officer for County Treasury in consultation with the Chief Officer provided in Section 2 may appoint accountants for health Centres and dispensaries for purposes of proper financial accounting and record keeping.
- (6) The expenditure incurred by county health entities shall be on the basis of, and limited to, the available finances in the respective bank accounts and the authority to incur expenditure.

(7) County health entities shall be expected to file returns/account in the prescribed format for the preceding quarter to the office of the Chief Officer before a new AIE is issued.

Audits

29. The Health Services Improvement Financing shall be subjected to audits in accordance to the Public Audit Act, 2015.

Overdraft and continuity

30. (1) The Health Services Improvement Financing Accounts shall not be overdrawn.

(2) The Health Services Improvement Financing shall not lapse with the turn of a new financial year; but any residue of finances shall be captured in the following financial year budget and annual plans and rolled over.

Winding up of Health Services Improvement Financing

31. (1) In circumstances when a county health entity is closed and the Health Services Improvement Financing is to be wound up, the balances shall be swept to the County Revenue Fund and a certificate sent to the Accounting officer for the Department of Health.

PART V—MISCELLANEOUS PROVISIONS

Transitional provisions

32. (1) All gazetted members of the current Hospital Boards and Health Facility Management Committees shall continue to operate as per existing regulations.

Penalties

33. Penalties stipulated in the Public Finance Management Act, 2012 and its regulations and the Public Procurement and Asset Disposal Act 2015 and its regulations and other written laws on misuse, misappropriation and other deviations shall apply.

Regulations

34. The Executive Member may make regulations for the better carrying out of the provisions of this Act.

Repeal

35. The Mandera County Health Services Act No. 4 of 2019 is repealed.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The primary object and reason for this Bill is to provide for the County health facilities improvement financing and provide for the administration and management of county health services improvement financing and for connected purposes. Section 109 (2) (b) of the Public Finance Management Act, 2012 mandate the county treasure to ensure that money received or collected by the county government or its entities to be banked in the county revenue account except money that may, in accordance with other legislation, this Act, or County legislation, be retained by the county government entity that received it for the purposes of defraying its expenses.

The Bill provides a framework which will enable county health facilities to collect and use revenues at source thus ensuring readily available money to enhance service delivery. It is expected that this will also enhance revenue collection by health units in the county.

The Bill consists of five parts as follows—

PART I of the Bill contains preliminary provisions that include the short title; interpretation; objects and purposes of the act; principles of health financing and application of the Act.

PART II of the Bill includes sources of the health facilities improvement financing and the scope within the financing can be used.

PART III of the Bill provides for ring-fencing the administration and management of the health facilities improvement financing that includes the establishment and functions of County Health Management Team, the establishment, membership and functions of Hospital Management Boards, the establishment and role of the Health Centres and Dispensaries Health Management Team, the establishment of Health Facility Management Committee, and utilization of the health facilities improvement financing, among others.

PART IV of the Bill provides for financial provisions regulating bank account for the Health Services Improvement Financing, the Authority to Incur Expenditure (AIEs), expenditure of the Health Services Improvement Financing, Audits, and Winding up of Health Services Improvement Financing.

PART V of the Bill provides for miscellaneous provisions including Transitional provisions, Penalties, Regulations and Repeal.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 6th October, 2023.

MAHAT IBRAHIM HASSAN,
Chairperson, Health Services Committee.