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SOLIDARITEIT
SOLIDARITY

ATTENTION: **PRESIDENT CYRIL RAMAPHOSA** 05 OCTOBER 2023
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presidentrsa@presidency.gov.za

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NATIONAL COUNCIL OF PROVINCES
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Dear Sir/Madam

RE: SOLIDARITY // NATIONAL HEALTH INSURANCE

1. We confirm that we act and write this letter on behalf of our members in terms of Section 200 of the Labour Relations Act (hereafter the "LRA"), as well as the broader South African public who has a direct interest in the proposes National Health Insurance Bill (hereafter the "bill").

2. We wish to make it clear from the outset that this letter is not intended to be exhaustive of all matters, issues or rights of our members, and we reserve the right to address same at an appropriate time and in an appropriate forum, should it become necessary to do so.

3. It is with great concern that Solidarity has taken note of the fact that on the 13th of June 2023 the Bill was passed by the National Assembly and transmitted to the National Council for Provinces (hereafter the "NCOP") for concurrence. This happened notwithstanding comprehensive comments from us, as well as many other role-players, who made it abundantly clear that the Bill falls foul of international and constitutional standards and will neither pass the yardstick of rationality nor practicability.

4. Whilst rationality as well as administrative ethical accountability would dictate that the bill be rejected, it worryingly seems that the NCOP intends to mechanically go through the motions to ensure that the bill becomes a reality. This happens notwithstanding the fact that up to date no proper costing exercise has been done by the proponents of the bill to ensure that the proposed bill does not unduly burden the taxpayer.

5. In amplification of the above it is telling that in a departmental briefing dated the 20th of June 2023 (only a few days after the bill was passed by the National Assembly) in answer to a question about the feasibility and costing of the bill and scheme, the following answer was given by the department:[1]

> *There had been strong guidance from the World Health Organization (WHO) that it was ill-advised to try and do a detailed costing of this kind of reform. No other country had done it. The NHI Fund would be done incrementally. The Department would set the target in which it would design and manage the system. The Department would only introduce the benefits it knew that it could afford within that envelope. The Department could refer the Members to those various studies that had been done and comments that had been made. They were wide in range because there was no agreed global methodology for doing this.*

6. It ostensibly seems that no costing was done due to the fact that it will be *ill-advised to try* to do so, and *no other country had done it.* If the bill did not have such dire consequences for our country, the aforementioned remarks would have been rather amusing. It is unfortunately neither amusing nor rational and makes the whole bill, as well as the administrative process in promulgating it, susceptible to judicial review.

7. We attached hereto (as annexure "DH1") an updated costing report by Solidarity Research Institute which clearly shows *inter alia* that "*South Africa cannot afford the NHI in any form and should much rather invest in current public health systems. These are not being adequately funded or managed at present. The costs of the NHI are severely underestimated by the government and have been intentionally kept secret since the 2011 Green Paper.*"
8. We also attach hereto (as annexure "DH2") a study by Solidarity Research Institute which clearly shows "*the NHI Bill, as it stands, is beset with constitutional challenges, legislative insufficiencies, and clauses deemed impracticable and unattainable. Of paramount importance, healthcare practitioners harbor a notable*

[1] https://pmg.org.za/committee-meeting/37266/

lack of support for its impending implementation..." and "*Healthcare workers do not support the implementation of the NHI and Solidarity strongly criticises and opposes the nationalisation and State interference and control over South Africa's healthcare system."*

9. It is clear from *inter alia* these two reports that the NHI is simply unaffordable as well as irrational, and that to proceed with any administrative process to implement it would be irrational and in contravention of the ethical codes and standards you as administrative office bearers prescribes to.

10. We request that you provide us with an undertaking that you will not proceed with any administrative action to implement the bill or the NHI scheme. Kindly take note that we will proceed with legal action against the furtherance and implementation of the bill or the NHI scheme, and that we will ask for a cost order against you in your personal capacity in such legal action.

11. Kindly take further note that irrespective of the aforementioned demand, we reserve the right to institute legal proceedings on any basis or cause of action we deem fit, and does this letter not attempt to be exhaustive of all matters.

Regards,

DIRK HERMANN
CEO : SOLIDARITY