

NO. 17 OF 2007

SUPPLIES PRACTITIONERS MANAGEMENT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Supplies Practitioners Management (Discipline) Regulations, 2015.....	23
2. Supplies Practitioners Management (Elections) Regulations, 2015.....	37

**SUPPLIES PRACTITIONERS MANAGEMENT
(DISCIPLINE) REGULATIONS, 2015**

[L.N. 246/2015.]

PART I — PRELIMINARY

1. Short title

These Regulations may be cited as the Suppliers Practitioners Management (Discipline) Regulations, 2015.

2. Interpretation

In these Regulations, unless the context otherwise requires —

"complainant" means a person, his duly recognised agent or legal representative who lodges a complaint to the Committee under regulation 3 in accordance with the Act;

"chairperson" means the person holding office or acting chairperson of the Committee;

"Committee" means the disciplinary committee established under section 22 of the Act;

"respondent" means a party to the proceedings before the Committee against whom a complaint is lodged under regulation 3.

PART II — COMPLAINT

3. Lodging of complaint

(1) A person who intends to lodge a complaint against a member of the Institute shall submit to the Secretary, a statement of complaint orally or in writing in Form DCI set out in the Schedule to these Regulations.

(2) The statement of complaint lodged under paragraph (1) shall include—

- (a) the name, address and telephone contact of the complainant;
- (b) the particulars of the respondent;
- (c) the particulars of the alleged professional misconduct to be investigated by the Committee; and
- (d) the substance of the complaint in sufficient detail to enable the Commission to act.

(3) A person who lodges a statement of complaint under paragraph (1) shall submit together with the complaint, documents in support of the claim and the prescribed fee.

(4) Where the complaint is made orally, or otherwise, or the complainant cannot read or write, the complaint shall be recorded in writing by a designated officer of the Council.

(5) A person who records a complaint in writing under paragraph (4) shall —

- (a) read over and explain the contents of the complaint to the complainant;
- (b) note on the form that the complainant has understood the contents;
- (c) state his name and designation; and
- (d) cause the complainant or the duly authorized agent to sign or affix a thumbprint at the bottom of each page of the document, where practicable.

4. Register of complaints

- (a) The Registrar shall keep a register of complaints in which all the statements of complaints shall be entered.
- (b) A statement of complaint shall be numbered and recorded sequentially in the register of complaints in the order in which it was received.

[Subsidiary]

5. Filing of complaint

Upon receipt of a statement of complaint, the Secretary shall

- (a) acknowledge receipt of the complaint by stamping and endorsing on the statement of complaint or recorded complaint, the date on which it is received;
- (b) enter the particulars of the complaint in the register of complaints;
- (c) inform the complainant in writing of the complaint number as entered in the register; and
- (d) advise the complainant of any steps required to be taken by the complainant to enable the Committee determine the application.

6. Fees

(1) There shall be paid to the Council such filing and other fees, including fees for service by the Committee of any notice or process, as shall be prescribed.

(2) The Committee may, if it considers it to be in the interest of justice, or on grounds of financial hardship on the part of the applicant, waive all or part of the filing fees payable in any application.

7. Service of complaint

(1) Upon filing a complaint with the Secretary, the Service of complainant shall serve a copy of the complaint, on the respondent within thirty days from the date of filing the complaint.

(2) Any document required to be served under these Regulations shall, where practicable, be served personally on the person by delivering the document to the person or, if the person cannot be so served, shall be served by sending the document to the person's proper address by registered post or by other verifiable form of delivery.

(3) The Secretary may, at the request of any party and on payment of such costs as the Committee may determine, serve a copy of the notice of the complaint and of any reply, together with any supporting documents, amendments or supplementary statements, written representations or other documents received from any party on all parties to the proceedings and if any person or body is subsequently enjoined as a party, upon that person or body.

8. Complaint against member of Committee

Where a complaint is lodged against a member of the Committee, the member shall stand suspended from the committee and shall be automatically reinstated once the inquiry is completed in his favour.

9. Screening of complaints

(1) Upon registering a complaint under regulation 5, the Secretary shall transmit a copy of the complaint to each member of the Committee and to the person whose conduct is the subject of investigation.

(2) The Committee shall, within fourteen days upon receipt of a complaint under paragraph (a), conduct a preliminary enquiry into the matter and shall —

- (a) where in the opinion of the Committee the complaint does not disclose any *prima facie* case of professional misconduct, dismiss such complaint without requiring the member to whom the complaint relates to answer any allegations made against him or her and inform the complainant of its decision thereof; or
- (b) where the complaint discloses a *prima facie* case of professional misconduct, investigate the complaint.

(3) The Committee shall inform the complainant of its decision under paragraph 3(b) within fourteen days of its decision.

(4) Where the Committee decides to investigate a complaint under paragraph 3(b), the Secretary shall notify the member against whom the complaint has been made of its decision and require him or her to respond to the complaint by the date notified date therein.

10. Dismissal of complaint

(1) An order of the Committee dismissing a complaint under this paragraph shall be notified to the complainant and the respondent but shall not be a bar to a further complaint under the same grounds upon the discovery of new evidence which was not within the knowledge of the complainant.

(2) Notwithstanding regulation 9, the Committee shall reject a complaint where it considers that —

- (a) the matter is the subject of a complaint pending under investigation;
- (b) the complaint is vexatious, frivolous, oppressive or otherwise an abuse of the procedures for dealing with complaints; or
- (c) the complaint is repetitive.

(3) For the purposes of paragraph (b), a complaint is repetitive if it is substantially the same as a previous complaint, whether made by or on behalf of the same or a different complainant, or if it concerns the same subject as a previous complaint;

(4) Nothing in this regulation shall prevent the Committee from investigating a complaint if it considers that it is in the public interest to do so.

11. Application for review

(1) Any person who is aggrieved by a decision to reject complaint may make an application for review of that decision.

(2) An application for review shall only be made upon the discovery of new information or evidence which was not within the knowledge of the complainant when the decision was made or for any other sufficient reason.

(3) An application for review shall be in writing and shall state—

- (a) the details of the complaint;
- (b) the date on which the complaint was made;
- (c) the ground on which the application is based; and
- (d) the date on which the complainant was notified of the rejection of the complaint.

(4) The Committee shall consider the application and may allow it.

(5) The Committee shall determine the outcome of an application for review as soon as practicable and shall notify the applicant of the reason for its determination.

(6) Where the Committee receives an application for review it may request any information from any person which it considers necessary to dispose of the application.

(7) The Committee shall notify the applicant of its decision within seven of making the decision thereof.

12. Withdrawal of complaint and lapse of time

(1) A complainant may, in writing, withdraw a complaint at any stage of the proceedings and before any finding or recommendation is made, but such withdrawal shall not automatically terminate the investigation.

(2) The Committee may, in its discretion, continue with the investigation of any complaint, if, on the basis of evidence before it, such investigation is in the public interest.

(3) Where a complainant fails or neglects to respond to communication from the Committee within twelve months from the date of such communication, the Committee may deem the complaint date of such communication, the Committee may deem the complaint to have lapsed.

[Subsidiary]

Provided that the Committee may on its own motion, commence the investigation of the complaint as if the same was a complaint requiring special investigation.

PART III — REPLY TO COMPLAINT

13. Reply

(1) A respondent shall within fourteen days of receipt of the order under regulation 9(4) file with the Secretary his Statement of Response in Form DC2 set out in the schedule.

(2) The respondent shall file together with his or her statement of response under paragraph (1) documents in support of his or her statement as he or she considers necessary.

(3) The Secretary shall, upon receipt of the Statement of Response and supporting documents enter the fact in the register kept for the said purpose.

14. Request for further information

In his or her reply or in a separate notice to the Committee, the respondent may request —

- (a) further particulars of the complainant or action by the complainant; or
- (b) a determination of any question as a preliminary issue.

15. Preliminary consideration of reply by Committee

(1) The Secretary shall, within seven days of receipt of the Statement of Response furnish the Committee with the Statement of Response and any supporting documents.

(2) The Committee shall, upon receipt of the statement under paragraph (a) and—

- (a) where it is satisfied with the response by the respondent, consider the matter as settled and inform the parties to the complaint of its decision within seven days; or
- (b) where it is of the opinion that the respondent has not adequately addressed the issues raised by the complainant, set a hearing date in accordance with regulation 16.

16. Place and time of hearing

(1) The Secretary shall, —

- (a) within thirty days of receipt of the Statement of Response; or
- (b) where the respondent fails to file a reply to a complaint within the time specified under regulation 13,

and in consultation with the Committee, set a date for the hearing of the complaint and notify the parties to the proceedings in Form DC 3 set out in the schedule.

(2) A hearing notice shall be issued by the Committee and served on all other parties to the proceedings not less than twenty one days before the date set for the hearing.

(3) The hearing notice shall contain—

- (a) the date and time of the hearing;
- (b) a statement of the purpose of the hearing and a statement of the issues involved;
- (c) information and guidance, in a form approved by the Committee, as to attendance at the hearing of the parties and witnesses, the production of documents, and the right of representation;
- (d) a statement of the right of the parties to request for and receive reasons in writing for a decision of the Committee; and
- (e) a statement explaining the possible consequences of non attendance and of the right of an applicant and of any respondent who has presented a reply, but who fails to attend and is not represented, to make representations in writing.

(4) The Committee may alter the place and time of any hearing and the Committee shall give the parties not less than seven days notice of the alteration.

(5) The Committee may, from time to time, on its own motion or on the application of a party to the proceedings, adjourn the hearing and if the date, place and time of the next hearing is announced in the presence of all the parties at the time of the allowing adjourning the hearing, no hearing notice shall be required to be issued to any party.

PART IV — HEARING

17. Powers of the Committee

(1) The Committee shall, in conducting proceedings under these Regulations, have power to—

- (a) administer oaths;
- (b) summon persons to attend and give evidence;
- (c) order the production of relevant documents, including court judgments; and
- (d) subject to the provisions of the Regulations, regulate its own procedure.

(2) An oath may be administered by the person chairing the meeting of the Committee or by the Secretary.

(3) Notices and summons of the Committee shall be issued under the hand of the Secretary and shall be deemed to have been issued by the Committee.

18. Non-response by respondent

Where the respondent fails to respond to a complaint as specified under regulation 13 —

- (a) the hearing may proceed in his or her absence; and
- (b) he or she commits professional misconduct.

19. Form of proceedings

In the determination of complaints under these Regulations, the Committee shall have due regard to the principles of natural justice and shall not be bound by any legal or technical rules of evidence applicable to proceedings before a court of law.

20. Language of proceedings

(1) Proceedings before the Committee shall be conducted in English or Kiswahili.

(2) The Committee shall, taking into account all the circumstances, grant the assistance of a competent interpreter free of charge to a party or witness who does not understand or speak the language used at the hearing or who is deaf.

(3) The rulings of the Committee shall be in the English language but may be translated, on request by a party, into the Kiswahili language.

21. Information

(1) The Committee may receive or obtain information from such persons as it may deem proper, including, information from such persons as the Committee considers to possess knowledge or experience in matters relating to any complaint before it.

(2) Where a complaint is not disposed of after the preliminary investigation, the Committee shall review the complaint with a view to initiating further investigations.

22. Confidentiality

The Committee shall not disclose or publish information received by it in confidence without the prior consent of the informant.

23. Directions and pre-hearing orders

(1) The Committee may on its own motion or on the application by a party to the proceedings give directions, including directions for the furnishing of further particulars or

[Subsidiary]

supplementary statements, as are necessary to enable the parties prepare for the hearing or assist the Committee determine the issues related to the hearing before it.

(2) The Committee may take into account the need to protect any matter that relates to the intimate personal or financial circumstance of any party, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security and may order that all or part of the evidence of a person be heard in private or prohibit or restrict the publication of that evidence.

(3) Subject to the provisions of paragraph (2), all proceedings before the Committee shall be held in public.

(4) The Committee shall not compel a person to give any evidence or produce any document or other material that the person could not be compelled to give or produce in a trial for an action in a court of law.

(5) An application by a party for directions shall be made in writing to the Committee and shall, unless accompanied by the written consent of all parties, be served by the party seeking directions on all other parties to the proceedings.

(6) If any party objects to the directions sought, the Committee shall consider the objection and if it considers it necessary, give the parties an opportunity to appear and be heard by it on the objection raised.

24. Non-appearance by respondent

(1) Where a member of the Institute whose conduct is the subject of investigation, fails without reasonable excuse, to appear either personally or by his representative at the time and place in the notice of hearing served on him or her —

- (a) the inquiry may proceed on his or her absence; and
- (b) he or she commits professional misconduct.

(2) If a person appearing at the inquiry, without reasonable excuse —

- (a) refuses or fails to be sworn or affirmed;
- (b) refuses or fails to answer a question that he or she is required to answer by the person chairing the Committee; or
- (c) refuses or fails to produce a document that he was required to produce by a summons served on him or her,

he or she commits an offence.

25. Failure to comply with directions

(1) Where a party fails to comply with directions given under these Regulations, the Committee may, in addition to other power available to it, before or at the hearing of the complaint dismiss the whole or part of the complaint, or, as the case may be, strike out the whole or part of a respondent's reply and where appropriate, direct that a party be excluded from participating in the hearing.

(2) The Committee shall not dismiss, strike out or give any directions under paragraph (1) of this regulation unless it has served a notice on the party who has failed to comply with the direction, giving him an opportunity to show cause why the Committee should not give directions under paragraph (1) of this regulation.

26. Varying or setting aside of directions

(1) A person on whom directions, including any summons, are served and who had no opportunity of objecting to the making of directions may apply to the Committee to vary or set aside the directions.

(2) The Committee shall not vary or set aside any directions under paragraph (1) of this regulation without first notifying the person who applied for the directions and considering any representations made by that person.

27. Summons and orders

(1) A person who is summoned to give evidence before the Committee shall be given at least seven days' notice of the hearing.

(2) A witness summons issued under this section shall be in Form DC4 set out in the Schedule.

28. Exclusion of persons disrupting Proceedings

Without prejudice to any other powers it may have, the Committee may exclude from the hearing or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Committee, to disrupt the hearing.

29. Failure of Parties to attend hearing

(1) Where a party fails to attend or be represented at a hearing of which he has been duly notified, the Committee may —

- (a) unless it is satisfied that there is sufficient reason for the absence of the party, hear and determine the application in the absence of that party; or
- (b) adjourn the hearing,

and may make such orders as to costs as it considers fit.

(2) Before determining an application under paragraph (a) (i) of this regulation, the Committee shall consider any representations made in writing submitted by that party in response to the notice of application and for the purpose of this regulation, the application and any reply shall be treated as representations in writing.

(3) A party aggrieved by the decision of the Committee under paragraph (a)(i) may file an application within thirty days from the date of the decision for review of the order, and the Committee may within reasonable time review the order on such terms as it considers fit, if the Committee is satisfied that there was sufficient cause for non - attendance.

30. Procedure at hearing

(1) The chairperson shall, at the commencement of the hearing, explain the order of proceedings which the Committee proposes to adopt.

(2) The Committee shall conduct the hearing such manner as it considers suitable for the determination of the application or the clarification of issues before it and generally in the interest of justice, avoid legal technicality and formality in its proceedings.

(3) The parties shall be heard in such order as the Committee shall determine, and shall be entitled to give evidence, call witnesses, and address the Committee on both evidence and generally on the subject matter of the application.

(4) Evidence before the Committee may be given orally or, if the Committee so orders, by affidavit or written statement, provided that the Committee may at any stage of the proceedings require the personal attendance of any deponent or author of a written statement.

(5) The Committee may receive evidence of any fact which appears to it to be relevant to the application.

(6) The Committee may, during the hearing and if it satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in his notice of application or, as the case may be, his reply and to adduce any evidence not presented to the Commissioner before or at the time the Commissioner took the disputed decision.

(7) The Committee may require any witness to give evidence on oath or affirmation and for that purpose it may administer an oath or affirmation in the prescribed form.

31. Quorum

The quorum at meetings of the Committee shall be five members.

[Subsidiary]

32. Power to determine application without hearing

The Committee may, by consent in writing of all the parties to a hearing determine the application or any issue arising therefrom without an oral hearing.

33. Consolidation of proceedings

The Committee may, upon giving the parties concerned an opportunity to be heard, order the consolidation of any proceedings before it where complaints have been filed in respect of the same matter or in respect of several interests in the same subject in dispute.

34. Amendment of statements

The Committee may allow any amendments to the statements of complaint or response at any stage of the proceedings, provided that such amendment shall be for the interest of justice and is aimed at aiding the determination of the proceedings upon fair notice to the other party.

35. Dispensing with requirements under these Regulations

The Committee may dispense with any requirements of this Part with respect to notices, affidavits, documents, service or time, in any case where it appears to the Committee to be just or expedient to do so.

36. Extension of time

The Committee may extend the time for doing anything under this Part on such terms as the Committee thinks fit.

37. Demonstration and display facilities

The Committee may, at the request of any party and upon payment of the prescribed fees, provide visual demonstration facilities for the display of any maps, charts, diagrams, illustrations or texts and documents, which that party intends to exhibit during the hearing.

38. Opportunity to be heard or cross-examine

The Committee shall grant to any party a reasonable opportunity to —

- (a) be heard, submit evidence and make representations; and
- (b) cross-examine witnesses to the extent necessary to ensure fair hearing.

39. Adjournment of proceedings

(1) The Committee may of its own motion, or upon the application of any party, adjourn the inquiry upon such terms as it thinks fit.

(2) Notice of an adjournment of the inquiry shall be given to the persons involved in the proceedings in writing by the Committee.

40. Judicial notice

(1) The Committee may take judicial notice of—

- (a) facts that are publicly known and that may be judicially noticed by a court of law; and
- (b) generally recognised facts and any information, policy or rule that is within its specialised knowledge.

(2) Before the Committee takes notice of any fact, information, opinion or policy or rule other than that which may be judicially noticed by a court, it shall notify the parties of its intention and afford them a reasonable opportunity to make representations with respect thereto.

41. Representation

(1) Any party to the proceedings, may represent himself or be represented by an advocate of his choice.

(2) A party who is represented by an advocate may, at any stage of the proceedings change his advocate upon giving notice to the Committee and his former advocate.

(3) The party shall serve the notice of change of advocate on all other parties to the proceedings.

42. Decisions of the Committee

(1) After the hearing the complaint, the Committee may determine or order—

- (a) that the complaint be dismissed;
- (b) that the member of the Institute be reprimanded;
- (c) that the member of the Institute be suspended from practice for a specified period not exceeding two years;
- (d) that the name of the member of the Institute be struck off the register of members;
- (e) that the member of the Institute pay to the aggrieved person compensation of such amount as the Committee may determine, but limited to the extent of loss incurred taking into account all other prudent mitigating measures at the claimant's disposal; or
- (f) make such order as the Committee considers fit.

(2) The decision of the Committee may be taken by a majority of the members present and the decision shall record whether it was unanimous or taken by a majority of the members present.

(3) For the purposes of making the decision on the inquiry every member of the Committee has one vote, and, in the event of an equality of votes, the chairperson shall have a casting vote.

(4) The decision of the Committee shall be in writing and may be read out at the end of the hearing or be reserved and shall be signed and dated by the chairperson and every member who heard the matter.

(5) A dissenting opinion may be pronounced separately by the member who wrote it and shall be dated and signed by that member.

(6) Every document containing a decision referred to in this regulation shall, as soon as may be reasonable, be entered in the register and the Committee shall send a copy of the entry to each party.

(7) Every copy of an entry sent to the parties under paragraph (6) of this regulation shall be accompanied by a notification indicating the rights of the parties and of the time within which and place at which those rights may be exercised.

(8) Where the decision of the Committee refers to any evidence which has been heard in private, a summary of the decision, omitting such material as the Committee may direct, shall be entered in the register, but copies of the complete decision document shall be sent to the parties together with a copy of the entry.

(9) Except where a decision is announced at the end of the hearing, it shall be treated as having been made on the date on which a copy of the document recording it is sent to the applicant.

(10) Every order or determination of the Committee shall be made under the hand of chairperson or in his or her absence, by the person chairing the meeting at which the order or determination is made.

(11) Every order or determination of the Committee bearing the signature of the person chairing the meeting shall be *prima facie* evidence that the order or determination is that of the Committee.

43. Reasons for decisions

The Committee shall give reasons for reaching its decisions, and each decision shall include—

[Subsidiary]

- (a) a statement of the findings of fact made from the evidence adduced, including, where applicable, any relevant government policy; and
- (b) a statement of the laws and rules of law applied, and the interpretation thereof.

44. Cost of Proceedings

The Committee may recover the cost of an inquiry from any or all the parties to the proceedings.

PART V — MISCELLANEOUS PROVISIONS

45. Reports of the Committee

The Committee shall submit an annual report of its decisions and activities to the Council.

46. Additional powers of the Committee

(1) The Committee may—

- (a) where the parties to an application agree in writing upon the terms on which an application or issue should be decided, confirm the agreement reached by the parties and decide accordingly;
- (b) at any stage of proceedings before it, by order strike out or amend any notice, reply, supplementary statement or written representation on the grounds that it is scandalous, frivolous or vexatious; or
- (c) at any stage of the proceedings before it, by order strike out any application for want of prosecution.

(2) Before making any order under paragraph (1) of this regulation, the Committee shall send a notice to the party against whom the order is to be made, giving that party an opportunity to show cause why the order should not be made.

47. Correction of irregularities

- (a) Any irregularity resulting from failure to comply with any provisions of these Regulations or any direction of the Committee before the Committee has reached its decision shall render any proceedings void.
- (b) Where any irregularity comes to the attention of the Committee, the Committee may, if it considers that any person may have been prejudiced by the irregularity, give such directions as it considers just before reaching its decision to cure or waive the irregularity.
- (c) Clerical mistakes in any document recording a direction or decision of the chairperson or the Committee, or errors arising as a result of an omission, may be corrected by the chairperson by certificate under his hand or by the Committee.

48. Recording of proceedings

- (a) The chairperson shall record or cause to be recorded all proceedings before the Committee or may order that the record of any proceedings before the Committee shall be taken by short hand notes or tape recorder or, at the discretion of the Committee, be electronically recorded.
 - (b) A verbatim record of every hearing shall be made by the Committee, and copies of the transcript thereof shall be circulated to all members of the Committee and, on request, to any party to the hearing.
-

SCHEDULE

KENYA INSTITUTE OF SUPPLIES MANAGEMENT

[Rule 3(1).]

Form DC 1

STATEMENT OF COMPLAINT FORM

This form is provided for use when submitting a complaint against a Supplies Practitioner . In order to initiate a complaint, the complainant must complete this form or prepare a similar detailed description of the factual allegations supporting the charges.

(Please print/type the following information)

Complainant's details :

Name:

Address:

Telephone number.....

Email address.....

Supplies Practitioner's details

Name: _____

Address or place of work: _____

INFORMATION TO BE SUPPLIED BY THE COMPLAINANT

1. *Statement of Complaint:* Provide a statement of the facts, which the complainant believes, supports a formal investigation by the Kenya Institute of Supplies Management Disciplinary Committee. The complaint must include a clear explanation of the alleged unethical or unprofessional conduct of the named Supplies Practitioner. The statement must explain the facts in sufficient detail to permit the respondent Supplies Practitioner to answer the allegations.

List of Witnesses and Documents to be Submitted and Considered:

The complainant should supply any documentary evidence that can support or demonstrate the complaint against the supplies practitioner. If possible, details of witnesses should also be supplied together with the complaint or may be submitted in person to the Committee.

DECLARATION

I (complainant) certify that the facts submitted with this form are true and accurate to the best of my knowledge. I also understand that the accused Supplies Practitioner will receive a copy of this document as well as other information that may be submitted with regard to this complaint.

Signature of Complainant: _____ Date _____

Supplies Practitioners Management

[Subsidiary]

The above information should be sent by the complainant to:

Chairman
Disciplinary Committee
Kenya Institute of Supplies Management
Nairobi

Form DC 2

KENYA INSTITUTE OF SUPPLIES MANAGEMENT

[Rule 13(1).]

STATEMENT OF RESPONSE FORM

This form is provided for use by a Registered Supplies Practitioner when responding to a complaint against him/her.

(Please print/type the following information)

Respondent's particulars

Name:

Address or place of work: _____

Telephone No: _____

Email address: _____

INFORMATION TO BE SUPPLIED BY THE RESPONDENT

1. Statement of Response: Provide the Respondent's statement in response to the complaint.

2. List of witnesses and documents to be submitted and considered:

DECLARATION

I (respondent) certify that the facts submitted with this form are true and accurate to the best of my knowledge.

Signature of respondent: _____ Date _____

The respondent must complete this form and send to:

Chairman
Disciplinary Committee
Kenya Institute of Supplies Management
Nairobi

KENYA INSTITUTE OF SUPPLIES MANAGEMENT

(Rule 16(1))

Form DC 3

NOTICE OF HEARING

Registered Supplies Practitioners Name:

KINDLY TAKE NOTICE THAT a hearing will be held in respect of the allegation/s as detailed below:

ALLEGATION/S (specify here or in a separate document annexed to this document):

The details of the enquiry are as follows:

DATE:

TIME:

VENUE:

By signing this notice you confirm that you have been advised of the following:

1. You are entitled to be assisted at the disciplinary hearing by a fellow practitioner or advocate.
2. You are entitled to have an interpreter, if requested prior to the enquiry, timeously after receipt of this notice.
3. You are entitled personally, or through your representative, to question the complainant and witnesses during the enquiry.
4. You are entitled to call witnesses, furnish evidence and argue on the question of whether the allegation/s occurred.
5. You have been advised that should you refuse / fail to attend the hearing, the hearing will be held in your absence.

Chairman of the Kenya Institute of Supplies Management Disciplinary Committee

Signature _____ Date _____

Registered Supplies Practitioner

Signature _____ Date _____

Supplies Practitioners Management

[Subsidiary]

KENYA INSTITUTE OF SUPPLIES MANAGEMENT

[Rule 27(2).]

Form DC 4

WITNESS SUMMONS

In the matter of a complaint against

_____ (Supplies Practitioner).

Whereas your attendance is required to give evidence on behalf of

(complainant/respondent) to the above complaint, you are required by the Disciplinary Committee of the Kenya Institute of Supplies Management to appear before it at _____ AM/PM on the ___ day of _____, 20 _____.

Consequences of not responding

Dated this _____ day of _____, 20 _____.

Chairman - KISM Disciplinary Committee

**SUPPLIES PRACTITIONERS MANAGEMENT
(ELECTIONS) REGULATIONS, 2015**

[L.N. 247/2015.]

PART I — PRELIMINARY

1. Short title

These Regulations may be cited as the Supplies Practitioners Management (Election) Regulations, 2015.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"member" means a member of the Institute registered under section 16 of the Act;

"presiding officer" means a person appointed by the returning officer to preside over the election of the members of the Council;

"returning officer" means a person appointed by the Council to be in charge of the election of the members of the Council

3. Notice of election

(1) The Council shall send to each member and publish in two newspapers of national circulation, a notice of the date of the Annual General Meeting of the Council during which the election of the chairperson and six members of the Council under section 4(1)(a) and (b) of the Act shall be conducted.

(2) The Council shall send the notice under paragraph (1) at least sixty days before the Annual General Meeting of the Institute.

4. Appointment of returning officer etc.

(1) The Council shall appoint a returning officer for the purpose of conducting the elections under these Regulations.

(2) The Council shall not appoint a member as a returning officer or presiding officer under paragraph (1).

(3) A presiding officer shall, subject to the general direction and control of the returning officer, have all the powers and may perform all the duties of such returning officer under these regulations.

(4) The returning officer shall be responsible for the nomination process, overseeing the casting of votes, counting and announcing the final results of the elections under these regulations.

(5) The Institute shall provide the returning officer and presiding officers with such facilities and support as they may require for the discharge of their functions under these Regulations.

5. Nomination forms

(1) The Council shall send to each member at least thirty days before the issuance of a notice under regulation 3, the prescribed nomination forms.

(2) A person who meets the requirements of regulation 6 and who intends to vie for election as a member of the Council shall fill and sign the nomination forms in the manner specified in the form.

6. Eligibility for election and nomination

(1) A person shall be eligible to be elected as a member of the Council if that person —

- (a) is registered a member;

[Subsidiary]

- (b) has paid all fees or other monies due to the Institute; and
- (c) has not been convicted of an offence under the Act.

(2) For the purposes of nomination for candidature at an election, a candidate shall be —

- (a) proposed and seconded by a fully paid up member;
- (b) supported by eight fully paid up members, other than the proposer and seconder; and
- (c) nominated by filling the nomination form in the prescribed manner and delivering the form to the offices of the Institute in a sealed envelope marked with the word "NOMINATION" to the offices of the Institute not later than the date specified in form.

(3) The nomination forms submitted to the Institute shall be opened at the offices of the Institute by the returning officer and verified by the Chief Executive Officer.

7. Validity of nomination forms

(1) A returning officer may declare a nomination paper invalid if —

- (a) the particulars of the candidate or supporters contained in the paper are not in the prescribed form;
- (b) the candidate does not meet the eligibility criteria specified under regulation 6(1);
- (c) the proposer, seconder, or any supporter of a candidate is not a member; or
- (d) the nomination paper is not presented in accordance with these Regulations or in such manner as may be specified in the nomination form.

(2) A returning officer shall, in consultation with the Chief Executive Officer, submit his decision to the nominee within a period of seven days after declaring a nomination form to be invalid.

(3) Where a returning officer declares a nomination paper to be invalid, he shall record his decision and the reasons thereof on the nomination paper and append his signature thereto and shall return the nomination paper to the nominee who delivered the nomination paper within a period of seven days of the declaration.

8. Withdrawal of candidature

A nominee whose nomination paper has been delivered to the returning officer may, at any time before the close of nomination, by notice in writing signed by him and witnessed by one other person and delivered to the returning officer, withdraw his candidature.

9. Ballot papers

The Chief Executive Officer shall, in consultation with the returning officer, send to each member who has fully paid the subscription fees for the year during which the elections are held, at least thirty days before the Annual General Meeting—

- (a) a ballot paper in relation to the election of the chairperson;
- (b) a ballot paper in relation to the election of members of the Council;
- (c) a profile of the candidates vying for membership to the Council; and
- (d) a proxy form.

10. Election process

(1) The elections of the members of the Council shall be conducted at the Annual General Meeting of the Council.

(2) The election shall be conducted by way of secret ballot and the winner shall be determined by a simple majority.

(3) Each member shall have one vote.

(4) Each member voting at the election shall specify in the manner prescribed in the ballot paper, the name of the candidate of their choice from among the list of candidates contained in the paper.

(5) A person shall not write or make any other mark or sign on the ballot paper and shall, upon specifying the candidate of his choice, fold the paper so as to conceal the name of the candidate and cast his vote in the ballot boxes provided for the purpose of the conduct of the election.

11. Counting of votes and declaration of council members

(1) Upon the conclusion of the casing of votes, the presiding officer shall, in the presence of the candidates and members, count the votes cast and announce the number of votes cast for each candidate.

(2) The returning officer shall, upon counting all the votes cast, declare the candidates for whom the greatest number of votes has been cast as the chairperson and member of the Council respectively.

12. Rejection ballot paper

(1) The presiding officer may reject a ballot paper if such paper—

- (a) contains an election of more than candidate; or
- (b) is not properly filled as to indicate the choice of candidate of the voter.

(2) The presiding officer shall mark each ballot paper that is rejected under paragraph (1) with the word "rejected".

(3) Where a candidate objects to the rejection of a ballot paper, the presiding officer shall mark the ballot paper with the words "rejection objected to".

(4) The presiding officer shall mark every ballot paper which he counted but whose validity is disputed or questioned by a candidate with the word "disputed" but such ballot paper shall be treated as valid for the purpose of the election.

13. Tie in election

(1) In the event of a tie in the number of votes cast in the case of the chairperson or in the case of the members of the council, where the tie would result in a greater number of persons than the vacancies in the Council, subsequent elections shall be conducted with respect to the candidates with an equal number of votes.

(2) The procedure set out of the conduct of elections under these regulations shall apply with respect to subsequent elections conducted under paragraph (1).

14. Recount

(1) A candidate who is not satisfied with the manner in which the counting of votes is conducted may, upon the completion of the counting of votes, request the returning officer to recount the votes cast during the election.

(2) The returning officer may conduct a recount but shall not conduct more than one recount.

(3) The returning officer shall, upon the conduct of subsequent elections under regulation 13 or a recount under paragraph (1), announce the number of votes cast for each candidate and declare the elected as chairperson and member of the Council.

(4) The declaration of the returning officer under paragraph (3) shall be final.

15. Report of the elections

(1) The returning officer shall prepare a report on the election and the results of a recount, if any, which shall be read at the Annual General Meeting of the Council.

(2) The report shall, where applicable, include a statement on the number of ballot papers rejected or disputed under regulation 12.

[Subsidiary]

16. Retention of voting papers

(1) The ballot papers shall be kept in a sealed container by the returning officer and shall be retained by the Chief Executive Officer.

(2) The Cabinet Secretary shall publish the names of the Election process members of the Council in the Gazette within a period of fourteen days from the date of the elections.
