

**THE SUPPLY CHAIN MANAGEMENT PROFESSIONALS BILL,
2021**

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**THE SUPPLY CHAIN MANAGEMENT PROFESSIONALS BILL,
2021**

A Bill for

AN ACT of Parliament to provide for the training, certification, registration, licensing and continuous professional development of supply chain management professionals; to regulate the practice of supply chain management; to establish the Kenya Institute of Supply Chain Management, the Kenya Institute of Supply Chain Management Examinations Board and the Kenya School of Supply Chain Management and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I— PRELIMINARY

Short title. **1.** This Act may be cited as the Supply Chain Management Professionals Act, 2021.

Interpretation. **2.** In this Act —

“associate member” means a person registered under section 34;

“Cabinet Secretary” means the Cabinet Secretary responsible for Finance;

“Chief Executive Officer” means the Chief Executive Officer of the Examinations Board appointed pursuant to section 29;

“Council” means the Council of the Institute established under section 9;

“Disciplinary Committee” means the Committee established under section 43;

“Examinations Board” means the Kenya Institute of Supply Chain Management Examinations Board established under section 22;

“Executive Director” means the Executive Director of the Institute appointed pursuant to section 16;

“Fellow” means a person recognized as a Fellow of the Institute pursuant to section 32;

“Honorary member” means a person recognised as a Honorary member of the Institute in accordance with section 35;

“Institute” means the Kenya Institute of Supply Chain Management established under section 5;

“Member” means a person registered as a Member of the Institute in accordance with section 33;

“Principal” means the Principal of the School appointed pursuant to section 54;

No.33 of 2015

“Public Procurement Regulatory Authority” means the Authority established under section 8(1) of the Public Procurement and Asset Disposal Act, 2015; and

“School” the Kenya School of Supply Chain Management established under section 46.

- Objects of the Act. **3.** The objects of this Act are to—
- (a) establish and monitor the standards of professional competence and practice amongst supply chain management professionals;
 - (b) regulate the training, examination and certification of supply chain management professionals;
 - (c) provide a framework for registration, licensing, and continuous professional development of supply chain management professionals;
 - (d) promote and protect the welfare and interests of supply chain management professionals; and
 - (e) promote research, consultancy and advisory services in supply chain management.
- Application. **4.** This Act applies to a supply chain management professional engaged in —
- (a) public procurement management;
 - (b) private procurement management;
 - (c) warehousing, stores, asset management and stock control;
 - (d) procurement agency;
 - (e) supply chain management consultancy, research and advisory;
 - (f) public private partnership;
 - (g) contract and project management;
 - (h) logistics, clearing and forwarding;
 - (i) fleet management;
 - (j) asset disposal;
 - (k) operations management; or
 - (l) distribution management.

PART II— ESTABLISHMENT OF THE KENYA INSTITUTE OF SUPPLY CHAIN MANAGEMENT

Establishment of the Institute.

5. (1) There is established the Kenya Institute of Supply Chain Management.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing, acquiring, holding, charging or disposing of property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other acts necessary for the proper performance of its functions under the Act.

Functions of the Institute

6. The Institute shall—

- (a) establish and monitor the standards of professional practice and ethical conduct for supply chain management professionals;
- (b) regulate the conduct of academic and professional training, examinations and certification on supply chain management;
- (c) register, license and discipline Members of the Institute;
- (d) safeguard the interests and welfare of Members of the Institute;
- (e) facilitate continuous learning and competence in supply chain management;
- (f) establish criteria for accreditation of learning institutions offering academic courses in supply chain management;
- (g) advise the Examinations Board on matters relating to examination standards and policies;
- (h) facilitate continuous research in supply chain management;
- (i) establish a repository for supply chain management;
- (j) provide advisory services on supply chain management;

- (k) promote consultancy services on supply chain management;
 - (l) promote inter-professional and inter-agency collaborations in supply chain;
 - (m) promote local and international recognition of the Institute;
 - (n) perform such other functions as may be necessary for the proper administration of this Act.
- Membership of the Institute. **7.** (1) A person shall become a member of the Institute upon registration in accordance with this Act.
- (2) The membership of the Institute shall be classified as—
- (a) Fellows, comprising of persons who are recognised as such pursuant to section 31;
 - (b) Members, comprising of persons registered under section 32; and
 - (c) associate members, comprising persons registered under section 33.
- Organs of the Institute. **8.** The governance of the Institute shall vest in the General Meeting and the Council.
- The Council. **9.** (1) The Council shall comprise of —
- (a) a Chairperson, elected in accordance with section 10;
 - (b) the Cabinet Secretary in the Ministry responsible for Finance or a representative designated in writing;
 - (c) the Attorney-General or a representative, designated in writing;
 - (d) the Director-General of the Public Procurement Regulatory Authority or a representative designated in writing;
 - (e) six Members of the Institute elected in accordance with section 10; and
 - (f) the Executive Director shall be an *ex-officio* member.
- (2) Despite subsection (1), the Chief Executive Officer and the Principal shall have a standing invitation to a meeting of the Council.

- (3) The Council, may, co-opt such number of persons, whose knowledge and expertise may be necessary, for such period as it may determine.
- (4) The Chief Executive Officer, the Principal or a person co-opted under subsection (3) shall not be entitled to a vote at any meeting of the Council.

Qualifications
for the
Chairperson and
members of the
Council

- 10.** (1) A person is qualified for election as Chairperson if that person—
- (a) is a citizen of Kenya;
 - (b) is a registered member of the Institute in good standing;
 - (c) has at least fifteen years' professional experience in supply chain management, five of which shall be in a position of senior leadership;
 - (d) holds a valid practicing licence; and
 - (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution

- (2) A person is qualified for election as a member of the Institute under section 9(1)(e) if that person—
- (a) is a citizen of Kenya;
 - (b) is a member registered of the Institute and in continuous good standing;
 - (c) has at least ten years of professional experience in supply chain management; and
 - (d) holds a valid practicing licence.

Election of
Chairperson and
members

- 11.** (1) The election of the Chairperson and members of the Council specified under section 9(1)(e) shall be conducted on every second Friday of the month of January, every three years from the date of the previous election.

- (2) The election of the Chairperson and members of the Council shall be—
- (a) free and fair;
 - (b) by secret ballot;
 - (c) free from violence, intimidation or improper influence;
 - (d) conducted in a transparent manner;
 - (e) conducted by an independent body; and

- (f) administered in an impartial, neutral, efficient, accurate and accountable manner.
- (3) A person is eligible to vote in an election under this section if that person—
- (a) is a registered Member of the Institute in good standing; and
 - (b) is up to date in payment of membership subscription fees.
- Assumption of office. **12.** (1) The Cabinet Secretary shall, within fourteen days of the declaration of the results of the election under section 11, publish the names of the elected Chairperson and members in the *Gazette*.
- (2) Despite subsection (1), the Chairperson and members elected under section 9(1)(e) shall be deemed to have assumed office upon the expiry of the fourteen days under subsection (1).
- Term of office. **13.** The Chairperson and members elected under section 9(1)(e) shall hold office for a term of three years and shall be eligible for re-election for one further term of three years.
- Removal from office. **14.** The Chairperson or a member elected under section 9(1)(e) may be removed from office on any of the following grounds—
- (a) absence without justifiable cause, from three consecutive meetings of the Institute;
 - (b) conviction of an offence whose term of imprisonment exceeds six months;
 - (c) incapacitation by physical or mental illness from performing his or her duties as a member of the Institute;
 - (d) incompetence or neglect of duty; or
 - (e) bankruptcy.
- Vacancy. **15.** The office of the Chairperson or a member elected under section 9(1)(e) shall become vacant if the holder of the office—
- (a) dies;
 - (b) resigns, in writing, addressed to the members of the Institute;

- (c) upon expiry of his or her term of office; or
- (d) is removed from office pursuant to section 14.

The Executive
Director.

16. (1) The Council shall, through an open and transparent process appoint a suitably qualified person to be the Executive Director of the Institute.

(2) A person is qualified for appointment as the Executive Director if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree in a relevant field of study from a university recognised in Kenya;
- (c) holds a post-graduate professional qualification in supply chain management from a recognised institution;
- (d) has at least ten years' professional experience in supply chain management, five of which shall be in a position of senior leadership;
- (e) is a registered Member of the Institute for period of at least five years;
- (f) holds a valid practicing license; and
- (g) meets the requirements of Chapter Six of the Constitution.

(3) The Executive Director shall be responsible for the daily management of the staff and affairs of the Institute.

(4) The Executive Director shall hold office for a term of four years but shall be eligible for re-appointment for a further term of four years, upon satisfactory performance.

(5) The Executive Director may be removed from office on the following grounds—

- (a) violation of the Constitution or any other written law;
- (b) inability to perform functions of the office arising out of physical or mental infirmity;
- (c) incompetence or neglect of duty; or
- (d) bankruptcy.

(6) The office of the Executive Director shall become vacant if the holder of the office—

- (a) dies;
- (b) resigns, in writing, addressed to the Council; or
- (c) is removed from office pursuant to subsection (5).

The
Corporation
Secretary to the
Institute.

17. (1) The Institute shall, through an open and transparent process appoint a person qualified in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary to the Institute.

- (2) The Corporation Secretary shall—
- (a) provide guidance to the Council, and the members of the Council individually, on their duties and responsibilities on matters of governance;
 - (b) ensure that the Council complies with the law, rules and regulations, in carrying out its mandate;
 - (c) provide secretarial services to the Council, including preparation and circulation of the minutes of the Council and committees of the Council;
 - (d) keep safe custody of the Seal and a record of its usage; and
 - (e) perform any other duties that may be assigned by the Institute.

(3) The Corporation Secretary shall serve on such terms and conditions as the Council may determine.

The General
Meeting.

18. (1) There shall be a General Meeting of the Institute which shall be the supreme authority of the Institute.

(2) The General Meeting shall be held once, every calendar year.

(3) The General Meeting shall consist of registered members of the institute, who are up to date in payment of subscription fees.

(4) The quorum of the General Meeting shall be at least ten percent of all the members of the Institute.

- (5) The Chairperson of the Council shall preside at the General Meeting and the Secretary to the Institute shall be the secretary to the General Meeting.
- (6) The Chairperson of the Council shall present to the General Meeting a report of the activities of the Institute in the immediately preceding year.
- (7) Subject to subsection (5), the Council shall nominate one among its members to preside at the meeting, in the absence of the Chairperson.

Special General Meeting of the Institute.

- 19.** (1) A Special General Meeting of the Institute may be convened —
- (a) if requisitioned by at least ten percent of the Members of the Institute; or
 - (b) by the Council on its own motion after giving a thirty days' notice to the members of the Institute.
- (2) The notice requisitioning a meeting under subsection (1)(a) shall—
- (a) be in writing;
 - (b) be signed by the members of the Institute specified in subsection (1)
 - (c) specify the object of the proposed meeting; and
 - (d) be submitted to the Executive Director of the Institute.
- (3) The Council shall, within fourteen days of receiving a requisition under subsection (2), convene a Special General Meeting.

Resolutions of the Institute.

- 20.** (1) A resolution of the Institute in a General Meeting shall be by simple majority vote.
- (2) A member present at a General Meeting of the Institute, who is entitled to vote, shall have one vote, and the Chairperson of the Institute shall also have a casting vote.

- Branches of the Institute.
- 21.** (1) The Institute shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so.
- (2) Subject to subsection (1), the Institute shall be organised into such number of branches as set out in the Second Schedule.
- (3) The branches of the Institute shall —
- (a) act as a focal point for coordination of activities of the Institute at the branch level;
 - (b) be the centre for exchange of information and sharing of ideas on the profession;
 - (c) coordinate continuous professional development programmes;
 - (d) support, mentorship and coaching programmes;
 - (e) coordinate welfare programs for the members;
 - (f) participate in corporate social responsibilities on behalf of the Institute; and
 - (g) any other function that shall be assigned by the Council from time to time.

PART III— EXAMINATION AND CERTIFICATION

- Establishment of the Kenya Institute of Supply Chain Management Examinations Board.
- 22.** (1) There is established the Kenya Institute of Supply Chain Management Examinations Board.
- (2) The Examinations Board shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of—
- (a) suing and being sued;
 - (b) purchasing, acquiring, holding, charging or disposing of property;
 - (c) borrowing and lending money; and
 - (d) doing or performing all such other acts necessary for the proper performance of its functions under this Act.
- Composition of the Board.
- 23.** (1) The Examinations Board shall comprise of —

- (a) a Chairperson, who shall be competitively recruited and appointed by the Council;
 - (b) the Cabinet Secretary responsible for Finance or a representative designated in writing;
 - (c) the Attorney General or a representative designated in writing;
 - (d) one person nominated in writing by the Cabinet Secretary responsible for education, from the Kenya National Examination Council;
 - (e) a representative of the Kenya Institute of Curriculum Development designated in writing;
 - (f) the Director- General of the Public Procurement Regulatory Authority or a representative designated in writing;
 - (g) four persons appointed by the Council from among the Members of the Institute; and
 - (h) the Chief Executive Officer, who shall be an *ex-officio* member
- (2) Despite sub-section (1) the Executive Director and the Principal shall have a standing invitation at all meetings of the Examinations Board.
- (3) The Examinations Board, may, co-opt such number of persons, whose knowledge and expertise may be necessary, for such period as it may determine.
- (4) The Executive Director, the Principal and a person co-opted under subsection (3) shall not be entitled to a vote at any meeting of the Examinations Board.
- (5) The Chairperson and members appointed under subsection (1)(g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

Qualifications
for appointment
of Chairperson
and members of
the

- 24.** (1) A person is qualified for appointment as a Chairperson of the Examinations Board if that person—
- (a) is a Kenyan citizen;

Examinations Board.

- (b) is a registered Member of the Institute, and in continuous good standing;
- (c) has at least fifteen years' professional experience in supply chain management; five of which shall be in a position of senior leadership;
- (d) holds a valid practicing licence; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person is qualified for appointment as a member under section 23(1)(g) if that person—

- (a) is a Kenyan citizen;
- (b) is a registered Member of the Institute, and in continuous good standing;
- (c) has at least ten years' experience in supply chain management;
- (d) holds a valid practicing licence; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Publication of the names the Chairperson and members of the Examinations Board.

25. (1) The Cabinet Secretary shall publish the names of the Chairperson and members under section 23(1)(g) in the *Gazette*, within fourteen days of appointment.

(2) Despite subsection (1), the Chairperson and members appointed under section 23(1)(g) shall be deemed to have assumed office upon the expiry of the fourteen days' notice under subsection (1).

Removal of the Chairperson and members of the Examinations Board.

26. (1) The Chairperson or a member appointed under section 23(1)(g) may be removed from office for—

- (a) absence without justifiable cause, from three consecutive meetings of the Examinations Board;
- (b) conviction of an offence whose term of imprisonment exceeds six months;
- (c) incapacitation by physical or mental illness from performing his or her duties as a member of the Institute;
- (d) incompetence or neglect of duty; or
- (e) being adjudged bankrupt.

- (1) The office of the Chairperson or a member appointed under section 23(1)(g) shall become vacant if the holder of the office—
 - (a) dies;
 - (b) resigns, in writing, addressed to the Council;
 - (c) is removed from office pursuant to subsection (1).

Functions of the Board.

27. (1) The Examinations Board shall be responsible for the conduct of examinations for qualification and certification of supply chain management professionals.

(2) Despite the generality of subsection (1), the Examinations Board shall—

- (a) develop curricula and mode of instruction for supply chain management professional qualification and certification for persons seeking registration under this Act;
- (b) regulate the conduct of supply chain management professional examinations and certification;
- (c) prepare and conduct examinations and issue certificates to candidates who have satisfied examination requirements for persons seeking registration under this Act;
- (d) determine the fees and other charges payable with respect to such examinations;
- (e) issue professional qualifying certificates and other awards to candidates who have satisfied the examination requirements;
- (f) set, enforce and harmonise standards relating to accreditation of supply chain management education providers for the purpose of licensing;
- (g) liaise with the Ministry of Education in accreditation of institutions offering the examination of the Board for the purpose of carrying out examinations;
- (h) promote recognition of the Examination Boards' examinations locally and internationally;
- (i) promote and carry out research relating to supply chain management examinations, education providers and programmes;

- (j) set and enforce standards relating to the mode and quality examinations; and
- (k) perform such other functions as may be necessary for proper administration of this Act.

Powers of the Board

- 28.** In the performance of the functions under section 27, the Examinations Board may—
- (a) call for any document;
 - (b) conduct an investigation;
 - (c) issue summons to any person;
 - (d) administer an oath;
 - (e) investigate and determine cases involving indiscipline by students registered with the Examinations Board; and
 - (f) cause to be published in the Gazette the name of a person who has successfully completed the certified supply chain management professional course.

Chief Executive Officer

- 29.** (1) The Board shall, through an open and transparent process appoint a suitably qualified person to be the Chief Executive Officer.
- (2) A person shall be qualified for appointment as the Chief Executive Officer if that person—
- (a) is a citizen of Kenya;
 - (b) holds a degree in a relevant field of study from a university recognised in Kenya;
 - (c) holds a post-graduate professional qualification in supply chain management from a recognised institution;
 - (d) has at least ten years' experience in the management of education;
 - (e) has at least ten years' experience in a senior management position in supply chain management;
 - (f) is registered as a Member of the Institute for period of at least five years;
 - (g) holds a valid practicing licence; and
 - (h) meets the requirements of Chapter Six of the Constitution.

- (3) The Chief Executive Officer shall be responsible for the day-to-day management of the staff and affairs of the Examinations Board.
- (4) The Chief Executive Officer shall hold office for a term of four years but shall be eligible for re-appointment for a further term of four years, upon satisfactory performance.
- (5) The Chief Executive Officer may be removed from office on the following grounds—
 - (a) violation of the Constitution or any other written law;
 - (b) inability to perform functions of the office arising out of physical or mental infirmity;
 - (c) incompetence or neglect of duty; or
 - (d) where he is adjudged bankrupt.
- (6) The office of the Chief Executive Officer shall become vacant if the holder of the office—
 - (a) dies;
 - (b) resigns, in writing, addressed to the appointing authority;
 - (c) upon expiry of his or her term of office; or
 - (d) is removed from office pursuant to subsection (5).

Corporation
Secretary to the
Examinations
Board

30. (1) The Examinations Board shall, through an open and transparent process appoint a person qualified in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

- (2) The Corporation Secretary shall—
 - (a) provide guidance to the Examinations Board and the Board members individually on their duties and responsibilities on matters of governance;
 - (b) ensure that the Examinations Board complies with the law, rules and regulations, in carrying out its mandate;
 - (a) provide secretarial services to the Examinations Board, including preparation and circulation of the

minutes of the Board and committees of the Examinations Board;

- (b) keep safe custody of the Seal and a record of its usage; and
- (c) perform any other duties that may be assigned by the Examinations Board.

(3) The Corporation Secretary shall serve on such terms and conditions as the Examinations Board may determine.

PART IV– REGISTRATION AND LICENSING

Establishment
of the
Registration
Committee

31. (1) There is established the Registration Committee of the Institute.

- (2) The Registration Committee shall consist of—
 - (a) a Chairperson who shall be appointed by the Council from amongst members of the Council;
 - (b) three persons who shall be qualified supply chain management professionals appointed by the Council from amongst Members of the Institute;
 - (c) the Attorney-General or a representative designated in writing;
 - (d) the Director-General of the Public Procurement Regulatory Authority or a representative designated in writing;
 - (e) the Chief Executive Officer; and
 - (f) the Executive Director, who shall be the Registrar of the Committee.
- (3) The Registration Committee shall —
 - (a) receive, consider and approve applications for registration;
 - (b) issue registration, annual membership cards and practising licences in accordance with the provision of this Act;
 - (c) monitor compliance with professional, quality assurance and other standards published by the Council for observance by the members of the Institute;

- (d) develop criteria to govern quality assurance programmes including actions necessary to rectify deviations from published standards;
- (e) keep an updated register of the members of the Institute;
- (f) advise the Council on matters pertaining to professional and other standards necessary for the achievement of quality assurance; and
- (g) perform any other function that may be assigned by the Institute.

Registration of
Fellows of the
Institute

32. (1) A person is qualified to be registered as a Fellow of the Institute, if that person—

- (a) is registered as a Member of the Institute;
- (b) has at least ten years professional experience in supply chain management;
- (c) is in good professional standing;
- (d) has, in the opinion of the Council—
 - (i) rendered outstanding services to the supply chain management profession;
 - (ii) made significant contribution towards advancement of the objectives of the Institute; or
 - (iii) has outstanding competence in supply chain management.

(2) The Registration Committee may, where a Member meets the criteria set out in subsection (1), make a recommendation to the Council, to register the Member as a Fellow of the Institute.

(3) The Council may, on consideration of the recommendation under subsection (2), invite and register a Member as a Fellow of the Institute in accordance with the Fellows Charter prescribed by the Council.

(4) A person duly registered as a Fellow shall bear the title “Fellow of the Institute of Supply Chain Management of Kenya” and designatory letters FKISCM.

Registration as
a Member of
the Institute.

33. (1) A person is eligible for registration as a Member of the Institute if that person —

- (a) having passed the relevant examinations, holds a certificate, diploma or degree from an institution of higher education, recognised in Kenya;
 - (b) has successfully undergone a professional course prescribed by the Examinations Board and has been issued with a certificate; and
 - (c) is in good professional standing.
- (2) A person who meets the requirements under subsection (1) may, apply to the Registration Committee, to be registered as a Member of the Institute.
- (3) The Registration Committee may, on consideration of an application under subsection (2), register the applicant as a Member of the Institute.
- (4) A person duly registered as a Member of the Institute shall bear the title “Member of the Institute of Institute of Supply Chain Management of Kenya” and designatory letters MKISCM.

Registration as
an associate
member of the
Institute.

34. (1) A person is eligible for registration as an Associate Member of the Institute if that person –

- (c) having passed the relevant examinations, holds a certificate, diploma or degree from an institution of higher education, recognised in Kenya;
 - (d) is duly registered by the Examinations Board and
 - (e) is in the process of undertaking the professional course prescribed by the Examinations Board.
- (2) A person who meets the requirements under subsection (1) may, apply to the Registration Committee, to be registered as an Associate Member.
- (3) The Registration Committee may, on consideration of an application under subsection (2), register the applicant as an Associate Member of the Institute.

- (4) A person who is duly registered as Associate of the Institute shall bear the title “Associate Member of the Institute of Supply Chain Management of Kenya and designatory letters AKISCM.

Recognition of
Honorary
Members

- 35.** (1) Where the Council considers that a person, not being a registered member of the Institute, has rendered exceptional services to the Institute or the supply chain management profession, the Council may, invite the person to become a Honorary Member of the Institute.

(2) A person registered under this section shall not be considered as a member of the Institute.

Rights of a
registered
member

- 36.** (1) A person registered as a Fellow or Member of the Institute pursuant to section 32 and 33 shall have the right to—
- (a) vote at an election of the Institute or on any matter of the Institute;
 - (b) vie for an elective office of the Institute; and
 - (c) be nominated by the Council to represent the Institute at a Constitutional, statutory, international body or a Committee of the Institute or other Committee where the representation of the Institute is required.

Certificate of
Membership.

- 37.** The Chairperson of the Registration Committee and the Executive Director shall sign and issue a certificate of membership to a person registered under this Act.

Register of
members.

- 38.** (1) The Executive Director shall cause to be kept a register of the members of the Institute which shall contain—
- (a) the names and particulars of persons registered under this Act;
 - (b) the names of all persons issued with a practising licence;
 - (c) particulars of cancellation of registration of any person;
 - (d) orders issued by the Disciplinary Committee against a member;

- (e) oath of practice; and
- (f) such other details as the Council may determine.

(2) The Register shall be a public document and shall be open to inspection by any member of the public upon application to the Registrar and payment of the prescribed fees.

Requirement to take out practising licence.

39. (1) A person who is registered as a Member of the Institute under this Act shall take out a practicing licence.

(2) An Application for a practising licence shall be made to the Chairperson of the Registration Committee—

- (a) by delivering an application in duplicate, signed by the applicant specifying his or her name, place of business and membership number; and
- (b) by producing evidence of payment of the fee prescribed for a practising licence

(3) the Registration Committee shall, if satisfied that the name of the applicant is on the Register of Members and that he or she is not for the time being suspended from practice, issue to the applicant a practising licence.

Validity of a practicing licence.

40. A practicing licence issued under this Act shall be valid from the 1st January to 31st December

Provided every practising licence shall bear the date of the day on which it is issued and shall have effect from the beginning of that day.

Appeal and Review.

41. (1) A person may apply to the Committee to review its decision, in relation to registration or licensing where —

- (a) no appeal is preferred;
- (b) there is an apparent error on the face of the record; or
- (c) the applicant has discovered new information, which after due diligence, was not within the applicant's knowledge at the time of making the application.

(2) A person aggrieved by a decision of the Committee in relation to registration or issuance of practicing licence may appeal against the decision of the Committee to the Council.

(3) A further appeal against the decision of the Council shall lie with the High Court.

PART V— DISCIPLINE

Code of Ethics. **42.** The members of the Institute shall subscribe to the code of ethics prescribed by the Council.

Establishment of the Disciplinary Committee. **43.** (1) There is established the Disciplinary Committee, which shall be responsible for hearing, reviewing and determining disciplinary matters of members of the Institute, arising from a violation of the code of ethics prescribed under section 42.

- (2) The Disciplinary Committee shall consist of—
- (a) a Chairperson shall be appointed by the Council from amongst members of the Council;
 - (b) the Attorney-General or a representative nominated in writing;
 - (c) the Director-General of Public Procurement Regulatory Authority or a representative designated in writing; and
 - (d) four persons who shall be competitively appointed by the Council from among members of the Institute.

(3) The Executive Director of the Institute shall be the Secretary of the Disciplinary Committee but shall not have the right to vote at any meeting of the Disciplinary Committee.

(4) The members of the Disciplinary Committee appointed pursuant to subsection (2) (a) and (d), shall serve for a term of three years but shall be eligible for re-appointment for a further single term of three years.

(5) Subject to this Act, the Disciplinary Committee may regulate its own procedures.

(6) The Disciplinary Committee shall hear and determine a matter presented before it within thirty days.

Powers of the Disciplinary Committee.

44. The Disciplinary Committee may, upon hearing a complaint against a member of the Institute order that—

- (a) such member be admonished;
- (b) such member be suspended from membership of the Institute for a specified period not exceeding five years;
- (c) such member pays a fine not exceeding one hundred thousand shillings; or
- (d) such combination of the above orders as the Committee thinks fit.

Appeal and Review.

45. (1) A person may apply to the Committee to review its decision where—

- (d) no appeal is preferred;
- (e) there is an apparent error on the face of the record;
- (f) the applicant was not afforded a fair hearing in accordance with Article 47 of the Constitution; or
- (g) the applicant has discovered new information, which after due diligence, was not within the applicant's knowledge at the time of making the application.

(2) A person aggrieved by a decision of the Committee in relation to a breach of the Code of Ethics may appeal against the decision of the Committee to the Council.

(3) A further appeal against the decision of the Council shall lie with the High Court.

PART VI—ESTABLISHMENT OF KENYA SCHOOL OF SUPPLY CHAIN MANAGEMENT

Establishment of the School.

46. (1) There is established the Kenya School of Supply Chain Management.

(2) The School shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding or disposing of movable and immovable property;
- (c) entering into contracts; and
- (d) doing or performing such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.

Headquarters of the School

47. The headquarters of the School shall be in Nairobi.

Object of the School.

48. (1) The School shall be an educational institution responsible for the provision of professional training to persons who intend to be registered as supply chain management professionals.

- (2) Despite the generality of subsection (1) the School shall—
- (a) provide other specialised training in supply chain management;
 - (b) undertake projects, research and consultancies related to supply chain management professional training; and
 - (c) develop linkages and collaborations with educational institutions, professional organisations, private sector organisations and other similar institutions across the world; and
 - (d) be the resource centre for supply chain management.

Powers of the School.

49. The School may—

- (a) establish and manage a centre for research and training in supply chain management;
- (b) charge reasonable fees and other charges for services rendered;

- (c) regulate and supervise the discipline of the students of the School;
- (d) co-operate with other educational institutions in a manner that is conducive to the object of the School;
- (e) collaborate with a public office or a private organisation in the furtherance of the objects of the School; and
- (f) perform such other acts as are necessary, for the attainment of the object of the School.

Board of the School.

50. (1) The School shall be governed by a Board which shall consist of—

- (a) a Chairperson who shall be appointed by the Cabinet Secretary;
- (b) the Attorney General or a representative designated in writing;
- (c) the Principal Secretary responsible for technical training or a representative designated in writing;
- (d) two Members of the Institute nominated by the Council;
- (e) one Fellow nominated by the Council;
- (f) one member of the Council; and
- (g) the Principal, who shall be an *ex-officio* member.

(2) In appointing the members of the Board of the School under subsection (1)(d), (e) and (f), the Council shall ensure the appointments reflect gender and regional balance in accordance with the Constitution.

(3) Despite subsection (1), the Chief Executive Officer and the Executive Director shall have a standing invitation at all meetings of the School.

(4) The Council, may, co-opt such number of persons, whose knowledge and expertise may be necessary, for such period as it may determine.

- (5) The Chief Executive Officer, the Executive Director or a person co-opted under subsection (4) shall not be entitled to a vote at any meeting of the School.

Qualifications of the Chairperson and members.

51. (1) A person qualifies to be appointed as the Chairperson of the Board of the School if that person—

- (a) is a citizen of Kenya;
- (b) is registered as a Fellow of the Institute and in continuous good standing;
- (c) has at least fifteen years' professional experience in supply chain management, five of which shall be in a position of senior leadership;
- (d) holds a valid practicing licence; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person qualifies for appointment as a member of Board of the School if that person—

- (a) is a citizen of Kenya;
- (b) is registered Member of the Institute and in continuous good standing;
- (c) has at least ten years of professional experience in supply chain management;
- (d) holds a valid practicing licence; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Appointment procedure

52. The Cabinet Secretary shall appoint the Chairperson and members of the Board of the School under subsection 50 (1)(d), (e) and (f) by a notice in the Gazette.

Term of office of the Chairperson and members of the School

53. The chairperson and members of the Board of the School appointed under subsection 50(1)(d), (e) and (f) shall serve for a term of three years and shall, subject to satisfactory performance, be eligible for re-appointment for one further term of three years.

Removal from office

54. The Chairperson or a member appointed under subsection 50(1) (d) (e) and (f) may be removed from office on any of the following grounds —

- (a) absence without justifiable cause, from three consecutive meetings of the Board;
- (b) conviction of an offence whose term of imprisonment exceeds six months;
- (c) incapacitation by physical or mental illness from performing his or her duties as a member of the Board;
- (d) incompetence or neglect of duty; or
- (e) adjudged bankrupt.

Vacancy

55. The office of the Chairperson or a member appointed under subsection 50(1) (d) (e) and (f) shall become vacant if the holder of the office—

- (a) dies;
- (b) resigns, in writing, addressed to the Board of the School;
- (c) upon expiry of his or her term of office; or
- (d) is removed from office pursuant to section 54.

The Principal

56. (1) There shall be a Principal of the School who shall be appointed by the Board of the School through a competitive process on such terms and conditions of service as the Board of the School, may determine.

(2) A person qualifies to be appointed as the Principal if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree in a relevant field of study from a university recognized in Kenya;
- (c) holds a post-graduate professional qualification in supply chain management from a recognized institution;
- (d) has at least ten years' experience in the management of a training institution;
- (e) is registered as member of the Institute for period of at least five years;
- (f) holds a valid practicing license; and
- (g) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) The Principal shall hold office for a term of four years, and shall, subject to satisfactory performance, be eligible for re-appointment for one further term of four years.

- (4) The Principal shall be an *ex-officio* member of the Board of the School and shall be responsible for the daily management of the staff and affairs of the School.
- (5) The Principal may be removed from office on the following grounds—
 - (a) violation of the Constitution or any other written law;
 - (b) inability to perform functions of the office arising out of physical or mental infirmity;
 - (c) incompetence or neglect of duty; or
 - (d) bankruptcy.
- (6) The office of the Principal shall become vacant if the holder of the office—
 - (a) dies;
 - (b) resigns, in writing, addressed to the Board of the School;
 - (c) upon expiry of his or her term of office; or
 - (d) is removed from office pursuant to subsection (5).

Corporation
Secretary to the
School

- 57.** (1) The School shall, through an open and transparent process appoint a person qualified in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.
- (2) The Corporation Secretary shall—
 - (a) provide guidance to the Board of the School and the Board members individually on their duties and responsibilities on matters of governance;
 - (b) ensure that the Board of the School complies with the law, rules and regulations, in carrying out its mandate;
 - (c) provide secretarial services to the Board of the School, including preparation and circulation of the minutes of the Board and committees of the Board;
 - (d) keep safe custody of the Seal and a record of its usage and
 - (e) perform any other duties that may be assigned by the Board of the School.
 - (3) The Corporation Secretary shall serve on such terms and conditions as the School may determine.

PART VII— FINANCIAL PROVISIONS

Funds of the
Institute,
Examinations
Board and
School

58. (1) The funds and resources of the Institute, Examinations Board and School shall consist of—

- (a) such moneys as may be appropriated by Parliament for the purpose;
- (b) all moneys paid to the Institute, Examinations Board and School by way of grants, subsidies donations, gifts, subscriptions, fees, rent or interest; and
- (c) any moneys or properties which may become payable to or vest in the Institute, Examinations Board or School in respect of the performance of its functions.

(2) Despite subsection (1), the Examinations Board shall remit a proportion of at least fifteen per cent of the surplus of the fees collected under section 25(2)(d) to the Institute.

Annual
estimates

59. (1) At least three months before the commencement of each financial year, the Boards of the Institute, Examinations Board and School shall cause to be prepared estimates of the revenue and expenditure of the Institute, Examinations Board or School for that financial year.

(2) The annual estimates shall make provisions for all the estimated expenditure of the Institute, Examinations Board or School for the financial year and in particular, the estimates shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect to the Board and staff of the Institute, Examinations Board and School;
- (b) the payment of pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the Institute, Examinations Board and School;

- (c) the proper maintenance of the premises and other immovable property of the Institute, Examinations Board or School;
- (d) the maintenance, repair and replacement of the equipment and other movable property of the Institute, Examinations Board or School;
- (e) all expenditure incurred in relation to the establishment, equipment or management of any training institution by the Institute, Examinations Board or School; and
- (f) the creation of such reserve funds to meet future or contingent liabilities of the Institute, Examinations Board or School.

(2) The annual estimates shall be approved by the Council of the Institute, Examinations Board or School before the commencement of the financial year to which they relate and, once approved, shall be submitted to the Cabinet Secretary for approval and, thereafter the Council of the Institute, Examinations Board and School shall not increase the annual estimates without the consent of the Cabinet Secretary.

(3) No expenditure shall be incurred for the purposes of the Institute, Examinations Board or School except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Cabinet Secretary.

Audit of the accounts of the Institute, Examinations Board and School.

60. (1) The Boards of the Institute, Examinations Board or School shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Institute, Examinations Board or School.

(2) The accounts of the Institute, Examinations Board and School shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2015.

No. 34 of 2015.

PART VIII— PROVISIONS ON DELEGATED AUTHORITY

Power to make Regulation

61. The Cabinet Secretary may, in consultation with the Council prescribe regulations for—

- (a) registration of members of the Institute;
- (b) election of members of the Council of the Institute;
- (c) appointment of members of the Examinations Board;
- (d) recognition of Honorary Members;
- (e) the procedure for lodging a complaint against a member of the Institute;
- (f) procedure for convening a meeting of the Institute;
- (g) examinations and training;
- (h) application and issuance of practicing licence;
- (i) fees;
- (j) continuous professional development;
- (k) the practice of supply chain management;
- (l) fellows charter;
- (m) discipline;
- (n) records of the Institute;
- (o) welfare of the members of the Institute;
- (p) meetings of the Council; or
- (q) any other matter necessary for the proper administration of the Act.

PART XI— MISCELLANEOUS PROVISIONS

Staff

62. The Institute, Examinations Board and School shall appoint such officers and other staff as are necessary for the proper discharge of the functions under this Act, upon such terms and conditions as the Institute, Examinations Board or School may determine taking into account ethnic, regional and gender balance.

Committees

63. The Boards of the Institute, Examinations Board and School may from time to time establish committees for better carrying out of its functions.

- Protection from personal liability. **64.** No matter or thing done by a member of the Board or staff of the Institute, Examinations Board or School shall, if the matter or thing is done in good faith when executing the functions or the powers under this Act, render the member of the Institute, Board or School or staff, personally liable to any action, claim or demand whatsoever.
- Conduct of business and affairs of the Institute. **65.** The Conduct and regulation of the business and affairs of the Institute, Examinations Board and School shall be as provided in the First Schedule to this Act.
- Remuneration. **66.** The Chairpersons, members and the staff of the Institute, Examinations Board and School shall be paid such remuneration or allowances as the Institute Examinations Board or School may, on the advice of the Salaries and Remuneration Commission, determine.
- Annual Report. **67.** (1) The Institute shall, at the end of each financial year cause an annual report to be prepared.
- (2) The Institute shall submit the annual report to the members of the Institute, Cabinet Secretary and the Parliament three months after the end of the year to which it relates.
- (3) The annual report shall contain in respect of the year to which it relates—
- (a) the financial statements of the Institute, Examinations Board and the School;
 - (b) a description of the activities of the Institute, Examinations Board and the School’
 - (c) such other statistical information as the Institute may consider appropriate relating to the Institutes functions; and
 - (d) any recommendations made by the Institute to any person and the action taken.
- General Penalty. **68.** Any person who contravenes the provisions of this Act commits an offence and is liable, on conviction, to a fine

not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both.

Offences by
bodies
corporate.

69. If any act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as an supply chain professional, the body corporate shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings for each such offence, and, in the case of an act done by any director, officer or servant of the corporation, he shall, without prejudice to the liability of the corporation, be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings for or to term of imprisonment not exceeding six months or to both.

Transition.

70. (1) At the commencement of this Act, any person who, immediately before the commencement of this Act was a registered member of the Institute shall be deemed to be a Member of the Institute.

(2) At the commencement of this Act, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the Institute or Examinations Board shall by virtue of this sub-section, vest in the new Institute and Examinations Board under this Act.

(3) At the commencement of this Act, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such date were vested in, imposed on or enforceable against the Institute or Examinations Board shall, by virtue of this sub-section, be deemed to be vested in, imposed on or enforceable against the respective new Institute and Examinations Board.

(4) Any reference in any written law or in any document or instrument to the Institute and Examinations Board shall on and after the appointed day, be construed to be a reference to the respective new Institute and Examinations Board.

Repeal

71. The Supplies Practitioners Management Act, 2007 is hereby repealed.

DRAFT FOR COMMENTS

FIRST SCHEDULE

(Section 64)

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF—**

**THE INSTITUTE; THE EXAMINATIONS BOARD; and THE
SCHOOL.**

Interpretation.	1. In this schedule, the word— “Board” means the board of management of the Examinations Board, the Institute and the School.
Number of Board meetings.	2. The Board shall meet as often as necessary for the transaction of business but shall meet not less than four times every financial year and not more than four months shall elapse between the date of one meeting and the next.
The Chairperson to preside all meetings.	3. (1) The Chairperson shall preside at every meeting of the Board at which the Chairperson is present but in the absence of the Chairperson, the members of the Board present shall appoint a member from among their number to preside at that meeting. (2) The Chairperson or, in the absence of the Chairperson or member of the Board appointed by the Board, as the case may be, to act in the place of the Chairperson, may at any time call a special meeting upon a written request by a majority of the members of the Board.
Notice of meeting.	4. Unless five members of the Board otherwise agree, at least seven days' written notice of every meeting of the Board shall be given to every member of the Board.
Decision of the Board to be by majority.	5. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members of the Board present, as the case may be, and in the case of an equality of votes, the Chairperson presiding shall have a casting vote.
Recording of dissenting opinion.	6. Any member of the Board present at a meeting of the Board or a Committee thereof, shall have the right to require his opinion to be recorded in the minutes if the Board or the Committee, as the case may be, passes a resolution, which in the opinion of that member is contrary to his advice or to law.

The Supply Chain Management Professionals Bill, 2021

Disclosure of interest.	7. A member of the Board who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as possible after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Board and shall not be present during any deliberations on the matter.
Recording and keeping of minutes.	8. The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the Chairperson or the member presiding at the meeting.
Quorum.	9. (1) Subject to subsection (2), five members of the Board shall constitute a quorum for the conduct of business at any meeting of the Board.
	(2) When there is no quorum for the continuation of a meeting of the Board, only because of the exclusion of a member of the Board under paragraph 7, the other members present may, if they deem it expedient so to do— (a) postpone the consideration of that matter until there is a quorum; or (b) proceed to consider and decide the matter as if there was quorum.

SECOND SCHEDULE

BRANCHES OF THE INSTITUTE

(Section 20)

1. Nairobi
2. Coast
3. Nyanza
4. South Rift
5. North Rift
6. Western
7. Central
8. North Eastern
9. South Eastern

DRAFT FOR COMMENTS