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SUPPLIES PRACTITIONERS MANAGEMENT ACT

NO. 17 OF 2007

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SUPPLIES PRACTITIONERS MANAGEMENT ACT

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NO. 17 OF 2007

SUPPLIES PRACTITIONERS MANAGEMENT ACT

[Date of assent: 22nd October, 2007.]

[Date of commencement: 30th October, 2007.]

An Act of Parliament to make provision for the training, registration and licensing of supplies practitioners; to regulate their practice and for connected purposes

[Act No. 17 of 2007, Act No. 6 of 2009.]

PART I – PRELIMINARY PROVISIONS

1. Citation

This Act may be cited as the Supplies Practitioners Management Act, 2007.

2. Interpretation

In this Act, unless the context otherwise requires—

“**approved training institution**” means such institution within or outside Kenya as may be approved by the Institute by notice;

“**Council**” means the Council constituted under section 4 of this Act;

“**Disciplinary Committee**” means the disciplinary committee established under section 22 of the Act;

“**Institute**” means the Kenya Institute of Supplies Management established under section 3 of this Act;

“**member of the Institute**” means a member of the Institute registered under section 16 of the Act;

“**Minister**” means the Minister for the time being responsible for matters relating to Finance;

“**supplies practitioner**” means a person registered as a supplies practitioner under section 16.

[Act No. 6 of 2009, Sch.]

PART II – ADMINISTRATIVE PROVISIONS

3. Establishment of the Institute

(1) There is hereby established an Institute to be known as the Kenya Institute of Supplies Management.

(2) The Institute 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 or disposing of property;
- (c) doing or performing all such other acts necessary for the proper performance of its functions under the Act.

3A. Membership of the Institute

(1) A person who is registered under this Act shall be a member of the Institute.

(2) The members of the Institute shall be in the following categories—

- (a) Fellows, comprising those persons who become Fellows pursuant to an invitation under subsection (3), each of whom shall be titled "Fellow of the Kenya Institute of Supplies Management" (designatory letters F.K.I.S.M.);
- (b) members, comprising those members of the Institute who are registered under section 16, each of whom shall be titled "Member of the Kenya Institute of Supplies Management" (designatory letters M.K.I.S.M.);
- (c) associate members, comprising persons eligible to be registered under section 16 but who do not meet all the requirements prescribed under subsection (1) of that section.

(3) Where the Council considers that a member of the Institute has rendered outstanding services to the supplies profession, the Council may invite the member to become a Fellow.

(4) Members of the Institute shall pay such fees and subscriptions as the Council may determine.

[Act No. 6 of 2009, Sch.]

3B. Honorary Fellows

(1) Where the Council considers that a person, not being a member of the Institute, has rendered exceptional services to the Institute or the procurement and supplies management profession, the Council may invite the person to become an Honorary Fellow of the Institute.

(2) An Honorary Fellow shall not be a member of the Institute.

[Act No. 6 of 2009, Sch.]

4. Composition of the Council

(1) The Institute shall be governed by a Council to be known as the Council of the Institute which shall consist of—

- (a) a chairman, who shall be a member of the Institute with at least five years experience, elected by the members of the Institute;
- (b) the Permanent Secretary in the Ministry responsible for Finance;
- (c) the Director-General of the Public Procurement Oversight Authority; and
- (d) six other members elected by members of the Institute.

(1A) The Chairman and the members of the Council referred to in paragraph (d) shall be elected by the members of the Institute specified in section 3A(2)(a) and (b) in the manner prescribed by regulations.

(2) The chairman and every member appointed under subsection (1)(d) shall hold office for a term of three years and shall be eligible for re-election for one further term of three years.

(3) All appointments under this section shall be notified in the Kenya *Gazette*.

[Act No. 6 of 2009, Sch.]

5. Functions of the Institute

The Institute shall—

- (a) establish, monitor, improve and publish the standards of the supplies practitioners profession and safeguard the interest of all supplies practitioners;

- (b) make provision for the training and instruction of persons seeking registration under this Act;
- (c) recommend to the Minister for the time being responsible for education institutions to be approved for training of persons seeking registration under this Act;
- (d) advise the Examinations Board on matters relating to examination standards and policies;
- (e) have regard to the conduct of persons registered and licensed under this Act, and take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;
- (f) perform such other functions as may be necessary for the proper administration of this Act.

6. Conduct of business and affairs of the Council

The conduct and regulation of the business and affairs of the Council shall be as provided in the First Schedule to this Act.

7. Delegation of the powers of the Institute

Subject to this Act, the Institute may either generally or in any particular case, delegate to any committee of the Council or to any member, officer, employee or agent of the Institute, the exercise of any of the powers of the Institute under this Act.

8. Remuneration of Council members

The Institute shall pay to its Council members such remuneration, or allowances for expenses as the Minister may approve.

[Act No. 6 of 2009, Sch.]

9. The Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Institute who shall be competitively appointed by the Council and whose terms and conditions of service shall be determined by the Council in the instrument of appointment.

(2) The Chief Executive Officer shall, subject to the directions of the Council, be responsible for the management of the affairs of the Institute and shall be the Secretary to the Council.

10. Staff of the Institute

The Institute shall appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions as the Council may determine.

11. Protection from personal liability

No matter or thing done by a member of the Council or by any officer, employee or agent of the Institute shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Institute, render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

PART III – EXAMINATION, REGISTRATION AND LICENSING

12. Examination Committee

(1) There is hereby established a Board to be known as the Kenya Institute of Supplies Examination Board, which shall be a body corporate.

(1A) 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 or disposing of property;
- (c) doing or performing all such other acts necessary for the proper performance of its functions under this Act.

(2) The Examinations Board shall consist of—

- (a) five persons who shall be qualified supplies practitioners, nominated by the Council from amongst the members of the Institute, one of whom shall be appointed by the Council as Chairperson of the Examinations Board;
- (b) two persons nominated by the Minister responsible for education, one of whom shall be from the Kenya Institute of Education and the other from the Kenya National Examination Council;
- (c) one person nominated by the Commission for Higher Education;
- (d) one person nominated by the Director-General of the Public Procurement Oversight Authority;
- (e) one person nominated by the local universities; and
- (f) one person nominated by the Kenya Private Sector Alliance.

(3) In nominating the persons under subsection (2)(a), the Council shall have regard to gender balance.

[Act No. 6 of 2009, Sch.]

13. Functions of the Examinations Board

The Examinations Board shall generally have regard to the conduct of examinations for professional supplies certification and in particular to—

- (a) prescribe and regulate syllabuses of instruction for professional supplies certification for persons seeking registration under the Act;
- (b) prepare and conduct examinations for persons seeking registration under the Act;
- (c) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained in each examination for a diploma, degree or other award; and
- (d) make rules with respect to such examinations;
- (e) prescribe the fees and other charges payable with respect to such examinations;
- (f) issue professional qualifying certificates and other awards to candidates who have satisfied the examination requirements;
- (g) investigate and determine cases involving indiscipline by students registered with the Examinations Board;

- (h) remit a proportion of not less than thirty per cent of the fees collected under paragraph (e) to the Institute to support professional development;
- (i) liaise with the Ministry of Education in accreditation of institutions offering the examination of the Board for the purpose of carrying out examinations;
- (j) promote recognition of its examination in foreign countries;
- (k) perform such other functions as may be necessary for proper administration of this Act.

[Act No. 6 of 2009, Sch.]

14. Secretary

(1) There shall be a secretary who shall be an officer of the Examinations Board.

(2) The secretary shall be responsible for the day to day affairs of the Examinations Board and shall exercise and perform any such functions as the Board may from time to time determine.

15. Registration Committee

(1) There is hereby established the Registration Committee.

(2) The Registration Committee shall consist of—

- (a) a Chairperson who shall be appointed by the Council from amongst the members of the Council;
- (b) two persons who shall be qualified supplies practitioners appointed by the Council from amongst the members of the Institute;
- (c) one person nominated by the Federation of Kenya Employers;
- (d) the Attorney-General or his representative nominated by him in writing;
- (e) one person nominated by the Kenya National Examination Council;
- (f) one person nominated by the Director-General of the Public Procurement Oversight Authority;
- (g) the Registrar, appointed by the Minister on the recommendation of the Council.

(3) The functions of the Registration Committee shall be to—

- (a) receive applications for registration;
- (b) approve applications for registration and grant of practising certificates and licenses 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) prescribe regulations to govern quality assurance programmes including actions necessary to rectify deviations from published standards;
- (e) where appropriate and based on the results of a quality assurance investigation recommend to the Council that a member's conduct be referred for inquiry under section 23;
- (f) advise the Council on matters pertaining to professional and other standards necessary for the achievement of quality assurance;

- (g) perform any other functions connected therewith or incidental thereto.

[Act No. 6 of 2009, Sch.]

16. Persons entitled to be registered

(1) A person shall be entitled to registration if he satisfies the Council that he is of good conduct and has paid the registration fee and that—

- (a) he has successfully undergone a prescribed certificate, diploma, degree or research course of instruction and has passed the appropriate examination conducted or prescribed by the Institute; or
- (b) has undergone a certificate, diploma, degree or research course of training and passed an examination elsewhere than in Kenya, which the Institute recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and as equivalent to the qualification by examination required under the Act.

(2) A person engaged in supplies practice immediately before the enactment of this Act shall be eligible to be registered if he is, in the opinion of the Council, of good conduct, has met such professional qualifications as shall be prescribed by the Council and has paid the prescribed registration fee.

(3) Notwithstanding subsections (1) and (2), the Registration Committee may require a person making application for registration to satisfy the Registration Committee (in such manner as it directs) that his knowledge of local law relating to supplies practice is, and that his professional conduct and general character have been such as, in the opinion of the Registration Committee, makes him a fit and proper person to be registered.

(4) Subject to this subsection, a person is disqualified from being registered and licensed if he or she—

- (a) is convicted by a court of competent jurisdiction in Kenya or elsewhere of an offence involving fraud, dishonesty or moral turpitude;
- (b) has at any time been convicted of an offence under the Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003);
- (c) is an un-discharged bankrupt;
- (d) has not attained the age of eighteen years;
- (e) has at any time been convicted of an offence under this Act or the Public Procurement and Disposal Act, 2005 (No. 3 of 2005);
- (f) if in the opinion of a certified medical doctor, the person is incapable of performing his duties by reason of mental or physical infirmity.

(5) A person shall not be treated as disqualified under subsection (4)(a), (b) and (e) if the Registration Committee, having regard to—

- (a) the period which has elapsed since the conviction concerned; or
- (b) the circumstances of the offence,

determines that it would be unreasonable to so treat him.

(6) A person shall not be treated as disqualified under subsection (4)(c) if the Registration Committee is satisfied and the bankruptcy of the person concerned arose as a result of unavoidable losses or misfortunes.

(7) A person shall not be treated as being disqualified under subsection (4)(a), (b) and (e) if the High Court allows an appeal.

(8) A person who secures registration or a license knowing that he is not eligible to hold one shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings.

(9) A supplies practitioner shall be deregistered and forfeit his license upon the happening of any event specified or contemplated by subsection (4)(a), (b) or (c).

(10) A member of the Institute shall be required to undergo such continuous professional development programmes as may be prescribed by the Council.

17. Registration of supplies practitioners

A person eligible to be registered as a supplies practitioner shall apply in the prescribed form to the committee for registration, and the application shall be accompanied by the prescribed fee.

18. Certificate of registration

The Institute shall issue to every person registered under this Act, a certificate in the prescribed form.

19. Correction of register

(1) The Registrar shall cause to be kept a register of the members of the Institute.

(1A) The Institute may on the recommendation of the Registrar, make necessary alterations and corrections in the register in relation to any entry therein.

(2) The Institute on the recommendation of the Registrar, may remove from the register—

- (a) the names of a deceased person;
- (b) the name of a person convicted of an offence under the Act;
- (c) the name of a person whose name the Council has under section 23 directed to be struck off the register; or
- (d) an entry which has been incorrectly or fraudulently made in the register.

(3) The Institute may with the consent of the person concerned, remove from the register the name of a person who has ceased to be a supplies practitioner.

[Act No. 6 of 2009, Sch.]

20. Licensing

(1) After the expiry of twelve months from the commencement of this Act, no person shall engage in the business of a supplies practitioner unless he has been duly issued with a registration certificate and a practising license by the Institute in accordance with this Act.

(2) Where the holder of a registration certificate intends to practice as a firm whether as a sole practitioner or in partnership or as a body corporate, he shall apply to the Registration Committee for a supplies practitioner's license in the prescribed form.

(3) Where an application is made by any person in accordance with subsection (2) above, the Registration Committee shall issue him with a license if it is satisfied that—

- (a) he holds a valid Registration certificate;
- (b) he meets other requirements as may be prescribed by the Council.

(4) A supplies practitioner's license shall be in the prescribed form and shall be issued upon the payment of the prescribed fee.

(5) A supplies practitioner's license may be issued subject to such terms and conditions as the Institute may prescribe.

(6) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings, or imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

21. Validity of license

(1) A license granted under this Act shall be valid for one year.

(2) On expiry, a license may be renewed for such further period, not exceeding one year.

(3) Where a license expires and is not renewed, the name of the holder of the license shall be removed from the appropriate record.

PART IV – DISCIPLINE

22. Disciplinary Committee

(1) There is hereby established a committee of the Council, to be known as the Disciplinary Committee, which shall consist of eight members, of whom—

- (a) the Chairperson shall be appointed by the Council from amongst members of the Council;
- (b) three persons shall be nominated by the Council from among members of the Institute;
- (c) one member shall be nominated by the Director-General of Public Procurement Oversight Authority;
- (d) one member shall be nominated by the Attorney-General;
- (e) one Advocate shall be nominated by the Law Society of Kenya;
- (f) one engineer nominated by the Institute of Engineers of Kenya;
- (g) one accountant nominated by the Institute of Certified Public Accountants of Kenya.

(2) The Chief Executive Officer of the Institute shall be the secretary of the Disciplinary Committee and shall not have voting power.

(3) Subject to this Act the Disciplinary Committee shall regulate its own procedures.

(4) The Disciplinary Committee shall receive and investigate complaints against supplies practitioners in accordance with the rules and regulations under this Act.

23. Disciplinary powers of the Committee

(1) The Disciplinary Committee may order the removal from the register, suspension of registration or revocation of the practising license of a supplies practitioner or the imposition of fine on a supplies practitioner as may be prescribed by the Council if that practitioner—

- (a) has been convicted of an offence punishable with imprisonment, the commission of which in the estimation of the Institute dishonors or scandalizes the calling of a supplies practitioner; or

- (b) has been convicted of an offence under the Public Procurement and Disposal Act, 2005 (No. 3 of 2005), the Anti-corruption and Economic Crimes Act, 2003 (No. 3 of 2003) or any other existing law;
- (c) has been guilty of gross negligence or malpractice in respect of his calling; or
- (d) has been guilty of other impropriety or professional misconduct; and for the purposes of this Act a member shall be guilty of professional misconduct if the member—
 - (i) wilfully fails to follow professional procurement and supplies management standards and ethical guidelines;
 - (ii) misappropriates funds or any property entrusted to the member;
 - (iii) knowingly procures goods, works or services at inflated prices;
 - (iv) deliberately fails to keep proper records of all transactions undertaken in the course of duties;
 - (v) discloses information acquired in the course of duty of any other person without the consent of the employer or client or other than required by law;
 - (vi) is involved in any corrupt practice;
 - (vii) engages in activities which are contrary to those for which registration and or licensing as a supplies practitioner was obtained under this Act;
 - (viii) is found guilty of fraud or any dishonest act;
 - (ix) allows any person to practise in the name of the member as a supplies practitioner unless such a person is the holder of a registration certificate and license;
 - (x) enters for the purpose of or in the course of practising as a supplies practitioner, into partnership with a person who does not hold a license or secures any professional business through the service of such a person or by means not open to a supplies practitioner;
 - (xi) pays or allows or agrees to pay directly or indirectly, to any person (other than a partner, a retired partner or the legal representative of a deceased partner) any share, commission or brokerage out of the fees for, or profits of, such member's professional services;
 - (xii) being concerned therein, in a professional capacity, expresses an opinion on a matter without obtaining sufficient information on which to base the opinion;
 - (xiii) fails to keep the funds of a client in a separate banking account or to use any such funds for purposes for which they are intended; or
 - (xiv) does or fails to do any other act which may be prescribed.

(2) The suspension of registration, removal from the register and other penalties or disqualifications imposed under this section shall subsist for a period not exceeding two years:

Provided that the Council may in exceptional circumstances extend the suspension period for a longer term:

Provided also that in the case of the circumstances contemplated by section 16(5)(a) and (b) of this Act, the removal from registration, suspension, revocation of license or other penalty or disqualification shall subsist for the longest period of disqualification from holding public office imposed on offenders convicted of an offence under the Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003).

(3) A person whose conduct is the subject of inquiry or disciplinary proceedings shall be afforded a fair opportunity of being heard either in person or by an advocate.

(4) In the discharge of its functions under this Act, the Disciplinary Committee may administer oaths and, subject to any regulations made under this Act, enforce the attendance of persons as witnesses or production of books and documents.

(5) The Disciplinary Committee shall discharge its functions in accordance with principles of fairness without undue regard to technicalities and rules of evidence.

(6) Any person whose name has been removed from a register or whose license has been revoked or suspended shall forthwith surrender to the Institute his certificates of registration or license and, any person who fails to do so, shall be guilty of an offence.

(7) Any person aggrieved by the decision of the Disciplinary Committee may appeal against that decision to the High Court whose decision shall be final.

(8) The Chief Justice may make rules governing appeals under this section and providing for the fees to be paid, the scale of costs of any appeal and the procedure to be followed therein.

PART V – FINANCIAL PROVISIONS

24. Funds of the Institute

The funds of the Institute shall comprise—

- (a) such moneys as may accrue to or vest in the Institute in the course of the exercise of its powers or performance of its functions under this Act;
- (b) all moneys from any other source provided for, donated or lent to the Institute;
- (c) such proportion of the fees charged by the Examinations Board under section 13(h) of this Act; and
- (d) such funds as may accrue to the Institute from the Public Procurement Oversight Authority under and in furtherance of sections 9 (c)(iii) and 18 (5)(d) of the Public Procurement and Disposal Act, 2005 (No. 3 of 2005).

25. Investment of funds

The Institute may invest any of its surplus funds in such a manner and in such institution as the Council may determine.

26. Financial year

The financial year of the Institute shall be the period of twelve months ending on the thirty-first of December in each year.

27. Annual estimates

Before the commencement of each financial year, the Institute shall cause to be prepared estimates of revenue and expenditure of the Institute for that financial year concerned and in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Institute;
- (c) the acquisition, maintenance, repair and replacement of the equipment and other moveable property of the Institute.

28. Accounts and audit

(1) The annual estimates shall be approved by the Institute before the commencement of the financial year to which they relate:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Institute.

(2) The Institute shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Institute.

(3) Within a period of four months from the end of the financial year, the Institute shall submit to the members of the Institute at an annual general meeting or special general meeting convened for that purpose the audited accounts of the Institute together with—

- (a) a statement of the income and expenditure of the Institute on the last day of that year; and
- (b) a statement of the assets and liabilities of the Institute on the last day of that year.

(4) The accounts of the Institute shall be audited by an auditor duly appointed at the Institute's annual general meeting.

PART VI – MISCELLANEOUS PROVISIONS**29. Offences by persons not eligible to be registered or licensed**

(1) Any person who not being eligible to be registered or licensed under this Act uses any title appropriate to a person so registered or licensed or holds himself out directly or indirectly as being so registered or licensed, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) Any person who, not being eligible to be registered or licensed under this Act, practises for gain as a supplies practitioner, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

30. Offences by person eligible to be registered or licensed

Any person who, though eligible to be registered or licensed under this Act, is not so registered or licensed and practises as a supplies practitioner commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

31. Offences by persons conducting training courses or examinations without authority

(1) Any person, being the owner, manager, trainer or otherwise directly involved in the establishment or management of a training institution which is not approved by the Minister for the time being responsible for education as an institution for the training of persons seeking registration under this Act, who—

- (a) admits to the institution under his charge any person for the purpose of training in supplies;
- (b) purports to be conducting courses of training or examination under this Act or regulations made thereunder;
- (c) issues any document, statement, certificate or seal implying that the holder thereof has undergone a course of instruction or has passed an examination prescribed by the Institute; and
- (d) issues any document, statement or seal implying that the institution under his charge is approved by the Institute as an institution for training of persons seeking registration under this Act,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

32. Employment of unregistered staff

(1) Any employer who employs an unregistered or unlicensed person as a supplies practitioner shall be guilty of an offence and is liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

(2) Where the employer provided in subsection (1) is a body corporate, the Chief Executive Officer of that corporation shall be guilty of an offence and shall be liable to the penalties provided in subsection (1).

33. Falsification of registers or records

Any person who wilfully makes or causes to be made any false entry in, or falsification of, any register or record kept under this Act, or who procures or attempts to procure himself or any other person to be registered or licensed under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

34. Validity of proceedings

The Council, the Registration Committee, the Disciplinary Committee and the Examinations Board may exercise and perform their functions notwithstanding any vacancy among the members and the validity of any proceedings of the Council or the Registration Committee, or the Disciplinary Committee or the Examinations Board shall not be affected by any such vacancy or any defect in the appointment of a member.

35. Gender balance

In nominating any of the persons under this Act the nominating bodies shall have regard to gender balance.

36. Regulations

The Minister may, in consultation with the Council, make regulations generally for the better carrying out of the provisions of this Act and to provide for the following—

- (a) the form and method of keeping the registers and records under this Act;
- (b) the conditions of admission to the registers and of the issue of licenses;
- (c) the manner in which the training of the persons for whom provision is made in this Act is regulated;
- (d) the subject matter of training courses and examinations to be conducted by the Institute;
- (e) the conditions of admission for entry to training courses and examinations to be conducted by the Institute;
- (f) the standards and conditions of professional practice of persons registered or licensed under this Act;
- (g) the fees payable in respect of examinations registration, issue of licenses, and in respect of other matters under this Act;
- (h) the summoning of meetings of and the direction of the proceedings of the Council;
- (i) any other functions as may be necessary for the proper administration of the Act.

37. Examination offences

Any person who—

- (a) gains access to examinations material and knowingly reveals the contents, whether orally, in writing or through any other form, to an unauthorized party, whether a candidate or not;
- (b) wilfully and maliciously damages examinations materials;
- (c) is not registered to take a particular Board's examination but with intent to impersonate, presents or attempts to present himself to take the part of an enrolled candidate;
- (d) presents a forged certificate to a prospective employer or to an institution of learning with intent to gain employment or admission; or
- (e) introduces unauthorized material in the examinations room whether in writing or in any other form, whether a candidate or not,

shall be guilty of an offence and liable to imprisonment for a term not exceeding three years or to a fine not exceeding one hundred thousand Kenya shillings, or to both such imprisonment and fine.

FIRST SCHEDULE

[Section 6.]

PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE COUNCIL**1. Committees and co-opted advisors**

(1) The Council shall establish such committees as it may deem appropriate to perform such functions and responsibilities as it shall determine, but all findings of such committees shall be presented to the Council for its consideration and determination.

(2) The Council may at its discretion, at any time and for any length of time, invite any person to attend any of its deliberations but such person shall not be entitled to vote on any matter at any meeting of the Council.

2. Meeting of Council

(1) The Council shall meet at least four times in every financial year.

(2) The chairman shall preside at every meeting of the Council, at which he is present, but in his absence, the members shall elect one of their numbers who shall, with respect to that meeting and the business transacted thereat, have all the powers of a chairman.

(3) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman shall have a casting vote.

(4) The quorum for the conduct of the business of the Council shall be five members.

3. Vacation of office

(1) A member of the Council other than an *ex officio* member shall vacate office on any of the following grounds—

- (a) upon the expiry of his appointment;
- (b) upon his death;
- (c) if he is adjudged bankrupt;
- (d) if he is sentenced for any offence against any written law to a term of imprisonment of six months or more;
- (e) if he is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (f) if he is absent, without permission of the Council from three successive meetings of the Council of which he has received notice;
- (g) upon notice in writing of his intention to resign his office;
- (h) if in the opinion of the Council, he becomes by reason of mental or physical infirmity incapable of performing his duties as a member of the Council; or
- (i) upon the commission of an offence under this Act.

4. Disclosure of interest

If a member of the Council has any interest direct or indirect in any application or other matter which is the subject of consideration at a meeting of the Council,

the member shall at the meeting, disclose the fact to the Council and shall take no part in the consideration or discussion of or vote on any question with respect to the application or the other matter.

SECOND SCHEDULE

TRANSITIONAL PROVISIONS

1. The Executive Board of the Kenya Institute of Supplies Management existing before the enactment of this Act shall assume the responsibilities imposed on the Council and the Registration Committee by this Act as an Interim Council and Interim Registration Committee until the first elections held under this Act.
 2. The Chairperson elected at the last annual general meeting of the Institute shall continue to act as Chairperson of the Institute until the first elections held under this Act.
 3. The Interim Council shall facilitate the registration of members of the Institute and the convening of the first annual general meeting at which Council members shall be elected.
 4. The first annual general meeting of the Institute shall be convened by the Interim Council within a period of twelve months of the commencement of this Act.
 5. Any supplies practitioner carrying out any business contrary to this Act shall ensure that the business is compliant with the Act within twelve months of the commencement of this Act.
 6. Any examinations currently being conducted by any statutory body for the purpose of qualifying supplies practitioners shall be transferred to the Examinations Board within twelve months of the commencement of this Act.
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