

# **Eritrean Electoral Law**

## **Preamble:**

Whereas the Eritrean People's liberation struggle to self-determination was a struggle for independence and democracy

Whereas the Eritrean Constitution upholds the democratic rights of the people of Eritrea, encourages the exercise of those rights, and calls for the establishment of a government elected democratically through free popular vote

Aware that there should be election laws which secure the participation of all citizens in the first popular elections

Now therefore it hereby proclaimed as follows:

## **Chapter One: General Provisions**

### **Article 1. Short Title:**

This proclamation may be referred to as the "Eritrean Electoral Law Proclamation No. -----"

### **Article 2. Definitions**

Unless the context otherwise requires, in this proclamation:

- 2.1 Region means an administrative region established by proclamation no. 86/96;
- 2.2 Sub-region means an administrative sub-region established by proclamation no. 86/96;
- 2.3 Regional electoral office means an office established by this proclamation at the regional level;
- 2.4 Sub-regional electoral office means an office established by this proclamation at the sub-regional level;
- 2.5 Regional court means a court established at the regional level;
- 2.6 Sub-regional court means a court established at the sub-regional level;
- 2.7 Supreme Court means the country's Supreme Court established by proclamation No. 25/92;
- 2.8 Election means electing a person for the National Assembly or the regional assembly;
- 2.9 Constitution means the Constitution of Eritrea;
- 2.10 Voter means a citizen who registers to vote in accordance with this proclamation;
- 2.11 Electoral area (constituency) means a constituency designated for election purposes by this proclamation and by directives that the electoral Commission issues;
- 2.12 A contestant means a person who contests for election according to this proclamation;
- 2.13 Voting card means a card issued to a voter according to article 29 of this proclamation;
- 2.14 Voter register means a register prepared in accordance with article 27 of this proclamation;
- 2.15 Regional elections officer means an officer assigned according to this proclamation as head of the regional elections office;
- 2.16 Sub-regional elections officer means an officer assigned according to this proclamation as head of the sub-regional elections office;
- 2.17 Election post means a voting post (ballot) established according to article 13 of this proclamation;
- 2.18 Country means the State of Eritrea;
- 2.19 Direct election means an election in which a voter casts his vote directly;
- 2.20 Indirect election means an election in which a voter casts his vote indirectly through another voter.

## **Chapter Two: The Electoral Commission**

### **The Electoral Commission**

#### **Article 3: Establishment:**

Based on Article 58 of the Constitution, an independent electoral Commission with a legal entity hereinafter referred to as "The Commission" is hereby established by this proclamation.

#### **Article 4: Members of the Commission**

The Commission shall consist of a Commissioner, a secretary and three members, appointed by the President with the approval of the National Assembly.

#### **Article 5: Powers and Duties of the Commission:**

The Commission shall have the following powers and duties:

- a) based on the constitution and this proclamation, conduct free and fair popular elections, ensure that elections are conducted in an honest and professional manner;
- b) in accordance with this proclamation, establish laws and directives to conduct elections and ensure their proper application;
- c) count votes, confirm vote counts, and officially declare election results;
- d) prepare and distribute election materials and documents;
- e) conduct civic education programs relating to elections;
- f) registers contestants and ensure that they satisfy the election process requirements;
- g) ensures that registration is conducted properly and satisfies the election process requirements;
- h) supervises contestants' campaigns and assures that they have equal access to mass media;
- i) provide contestants and voters with essential information and developments related to administering, conducting and suspending elections;
- j) prepare and train the manpower needed to conduct elections;
- k) carry out research and studies to strengthen and improve future elections;
- l) inspect election results, approve or cancel the results, order the conduct of another election if it has evidence that there were frauds in specific elections;
- m) correct election irregularities and listens to complaints presented according to this proclamation;
- n) designate election areas (constituencies) at the national and regional levels;
- o) present regular reports of its activities to the National Assembly;
- p) prepare documents on the electoral process at the national and regional levels;
- q) appoint regional and sub-regional elections officers;
- r) conduct other activities based on the authority vested on it by this proclamation or by other laws.

#### **Article 6: Procedural Regulations of the Commission**

- 6.1 The presence of more than half of the members of the Commission shall constitute a quorum at any of its meeting;
- 6.2 The Commission shall make decisions by majority votes; in the event of a tie, the Chairperson shall have a casting vote
- 6.3 The Commission may issue directives to discharge its duties in accordance with this proclamation
- 6.4 The Commission shall decide the time and place to conduct its meetings

#### **Article 7: Powers and Duties of the Commissioner**

##### **The Commissioner:**

- a) shall call for and preside over the meetings of the Commission, direct and coordinate the activities of the Commission;
- b) supervise the activities of secretariat of the Commission;
- c) submit to the National Assembly reports on its activities;

## **Article 8: Powers and Duties of the Secretary**

The secretary shall:

- a) be in charge in the absence of the Commissioner;
- b) in consultation with the Commissioner prepare the meetings agenda;
- c) serve as secretary of the Commission and prepare minutes of meetings;
- d) transmit the decisions of the Commission to concerned bodies;
- e) conduct the day-to-day electoral activities that have been vested to the Commission by this proclamation;
- f) prepare periodic reports on the activities of the Commission to be presented to the National Assembly;
- g) g) discharge such other duties as the Commissioner may assign to him.

## **Article 9: Powers and Duties of the Regional Election Officer**

The regional election officer shall:

- a) direct, coordinate and supervise regional elections;
- b) direct and organize all elections offices under his jurisdiction;
- c) ensure the timely supply and proper distribution of election materials in his office and to the public;
- d) ensure that necessary preparations are concluded to conduct elections;
- e) supervise the proper implementation of the election process according to this proclamation;
- f) based on the directives of the electoral Commission receive complaints that may arise during the election process and with the assistance of a committee investigate the complaints;
- g) prepare and present a report to the Commission on the election process and outcome;
- h) conduct research and studies to strengthen and improve the election process and submit reports to the Commission;
- i) coordinate between the activities of the Commission and the region;
- j) j) discharge such other duties as the Commission may assign to him.

## **Article 10. Powers and Duties of the sub-regional election officer**

The sub-regional election officer shall be accountable to the regional election officer and shall, at the sub-regional level, have the duties and responsibilities enumerated in article 9 of this proclamation.

## **Chapter Three: Election rules and Principles**

Election Rules and Principles

### **Article 11. Election Rules**

Voting shall be direct and universal

- 11.1 The Commission shall issue directives for Eritreans residing abroad that are unable to vote directly, to vote indirectly;
- 11.2 A candidate that gets majority vote in a constituency shall win the election
- 11.3 If two or more candidates win equal numbers of votes, the winner shall be selected through a raffle.

### **Article 12: Election principles**

- 12.1. Elections shall ensure and guarantee the true participation and representation of the Eritrean people;
- 12.2. Elections shall be based on the principle of one-person one vote;
- 12.3. Eritrean citizens whose voting rights have not been denied by law shall have the right to elect and be elected;

- 12.4. Thirty percent of Assembly seats shall be reserved for females. Females shall equal rights to contest in the remaining 70 percent of Assembly seats;
- 12.5. Every voter shall have two votes; one for the general Assembly seats and one for the reserved Assembly seats.
- 12.6. Balloting shall be held in secret.

## **Chapter Four: Designation of Constituencies and election offices**

### **Article 13: Principle**

- 13.1. Eritrea shall be divided into constituencies for the purpose of elections;
- 13.2. Every constituency shall be divided into election posts;
- 13.3. There shall be an election office at the sub-regional level

### **Article 14: Constituency**

- 14.1 Every constituency shall consist of 25,000 dwellers or 12,000 eligible voters;
- 14.2 Every constituency designated for the reserved female Assembly seats shall consist of 50,000 dwellers or 24,000 eligible voters;
- 14.3 When designating constituencies, the Commission shall take into consideration the balance of ethnic participation and representation;
- 14.4 The Commission shall designate constituencies outside Eritrea to ensure the effective and fair participation of the Eritrean Diaspora

### **Article 15: Sub-regional electoral offices**

- 15.1 The number of sub-regional electoral offices shall be equal to the number of sub-regions;
- 15.2 Sela sub-region shall be designated a special constituency

### **Article 16: Number of constituencies**

- 16.1 The Commission shall determine the number of constituencies in each sub-region;
- 16.2 The Commission shall declare to the public the designated constituencies \_\_\_\_ months before the start of elections

### **Article 17: Representation of the Eritrean Diaspora**

- 17.1 The Eritrean Diaspora shall exercise their right to elect and be elected in the following areas, which for election purposes have been designated, as sub- regional constituencies. Every constituency shall have the following number of representatives in the National Assembly:
  - a) Sudan \_\_\_\_\_
  - b) Saudi Arabia \_\_\_\_\_
  - c) Kenya and other African countries \_\_\_\_\_
  - d) Middle East \_\_\_\_\_
  - e) North America \_\_\_\_\_
  - f) Europe \_\_\_\_\_
  - g) Australia and Asia \_\_\_\_\_
- 17.2 A sub-region that has more than one representative shall reserve one-third of its representation for females;
- 17.3 The Commission shall issue directives on the conduct of indirect elections

## **Chapter Five: Registration**

### **Article 18: Voter Requirements:**

To be eligible to register as a voter a person must be:

- a) Eritrean citizen;
- b) 18 and above years of age;
- c) sane;
- d) resident of the constituency, an employee in the constituency area, or assigned in the constituency area to perform his duties;
- e) not serving a sentence by a court of law;

f) capable by law to perform his civil and political rights

### **Article 19: only on registration**

A voter can register only once and in only one constituency

### **Article 20: Registration area**

Registration shall be carried throughout the territory of Eritrea and for Eritreans residing abroad registration shall be carried out in accordance with Article 17 of this proclamation

### **Article 21: Registration process**

- 21.1. Registration shall be conducted in the election post in the sub-region where a voter resides, works, or is assigned to perform his duty;
- 21.2. Eritreans living abroad shall register in areas determined by the Commission;
- 21.3. Voters shall register on a voter register prepared by the Commission;
- 21.4. Voters shall receive a voting card based on article 29 of this proclamation;
- 21.5. Eligible Handicapped and blind voters may be escorted when registering;
- 21.6. Candidates shall register in the constituency where they run for the elections.

### **Article 22: Registrars**

Election coordinators appointed by the Commission shall carry out registration in each election post

### **Article 23: Observers**

Observers appointed by the Commission, and representatives of public organizations permitted by the Commission, shall observe the election process

### **Article 24: Rights and duties of observers**

- 24.1 Observers shall have the right to enter the balloting areas, direct questions and collect information on the election process;
- 24.2 Observers shall refrain from obstructing the conduct of a proper and effective voting process

### **Article 25: Voter Registration date**

- 25.1 Voter registration shall be conducted throughout Eritrea on a date to be decided by the Commission. Registration date shall be announced ten days ahead through the mass media
- 25.2 The Commission shall decide voter registration dates for the Eritrean Diaspora

### **Article 26: Renewal of voter registration date**

- 26.1 Under acceptable special circumstances, the Commission may decide to renew the voter registration date;
- 26.2 When beyond-human-capacity situations occur, the Commission shall issue directives, in accordance with this proclamation to allow registration of eligible voters

### **Article 27. Details of the voter register**

The Commission shall issue a detailed voter register to be applied inside and outside the country

### **Article 28. Possession of ID Card**

Voter registration shall be carried out after producing an Identification Card or a Passport

### **Article 29. Voter Card**

A person who registers properly shall be issued a Voter Card that includes the person's name, birthplace, the election post, registration number, and his signature or fingerprint.

### **Article 30. Closure of the voter register**

- 30.1 At the end of registration, the voter register shall be closed, signed, and stamped by relevant election officials;
- 30.2 The voter register shall be available for public inspection.

### **Article 31. Moving documents**

Based on regulations issued by the Commission, every election post shall transfer the voter register or a copy of the register and other relevant documents to the sub-regional election office

### **Article 32. Cancellation of a registration**

Courts, hospitals, and election officers have the responsibility to immediately report to the relevant sub-regional election office reports of a voter's sentencing by court of law for crime committed, insanity due to mental disorder, or death. The sub-regional election officer has also the duty to immediately notify the regional election office and the Commission for proper action.

## **Chapter Six: Naming candidates**

### **Article 33. General Principles**

- 33.1 A person shall not be a candidate for more than one constituency at a time.
- 33.2 A supporter shall not sign his support for more than one candidate at a time.

### **Article 34. Conditions for naming a candidate**

- 34.1 With out regard to article 18 (d) of this proclamation, any person who registers as a voter, shall be able to become a candidate provided that:
  - a) during Election Day, he becomes 21 years of age or above
  - b) returns to normal life, if he had been declared bankrupt
  - c) has fulfilled his national service duties, and if a resident abroad has fulfilled all his duties as required by law
  - d) the person has not worked actively with the enemy to perpetrate crimes against the Eritrean people during the independence struggle, or has not collaborated with foreign forces against the sovereignty and unity of Eritrea after independence.

### **Article 35. Candidacy Procedures**

- 35.1 A candidate shall present a signed support of at least 5 percent of the residents of his constituency. The relevant administration office shall confirm that the supporters are residents of the area, are 18 years of age and above, and that this proclamation or other laws have not denied them the right to elect
- 35.2 A Resident outside Eritrea shall also present a signed support of at least 5 percent of his constituency. The Eritrean Embassy shall confirm that the supporters are residents of the area, are 18 years of age and above, and that this proclamation or other laws have not denied them the right to elect.

### **Article 36. Registration of candidates**

- 36.1 Any candidate, who has been determined eligible, shall present his supporting documents to the sub-regional electoral office and after registering in the candidates register shall be issued a certificate of registration;
- 36.2 Registration through an agent shall not be allowed;
- 36.3 When registering an eligible candidate shall:
  - a) Deposit a non-refundable 500 Nakfa or equivalent when running for National Assembly elections;
  - b) Deposit a non-refundable 100 Nakfa or equivalent when running for any other elections

### **Article 37. Death or withdrawal of eligible candidates**

- 37.1 Notwithstanding, article 35 of this proclamation, when a candidate dies or withdraws before Election Day:
- a) He shall be refunded the money he deposited for running for election;
  - b) Elections will continue by the remaining candidates

### **Article 38. Symbols of candidates**

- 38.1 Candidates shall present their running symbols according to directives that the Commission issues;
- 38.2 If necessary symbols of candidates may be printed in voting cards and/or posters

### **Article 39. Introducing candidates:**

After the sub-regional electoral office has solved all controversies that may arise, and confirmed the registration, it shall in accordance with directives it receives from the Commission, introduce the candidates.

### **Article 40. Immunity of candidates**

- 40.1 Unless caught red handed with a serious crime, a candidate shall not be arrested while the election process is underway;
- 40.2 A candidate accused of committing a crime not related to sub-article (1) of this article shall not be charged until the Commission officially declares the outcome of the election.

## **Chapter Seven: Election campaign**

### **Article 41. Freedom to campaign**

A candidate or a supporter shall, based on law, have the freedom to campaign for the elections through speeches, writings, posters, or conducting public meetings. The regional electoral office shall organize and coordinate the campaigns of all candidates.

### **Article 42. Campaign activities**

Campaign activities shall be carried out for three weeks in accordance with the articles of this proclamation and in a peaceful and legal manner.

### **Article 43. The right to access mass media**

All candidates shall have the right to equally and free-of-charge access and use government owned mass media

### **Article 44. Election campaign expenses**

The Commission shall cover all expenses related to campaigning for the elections. No private funds shall be allowed for campaigning.

### **Article 45. Time limit:**

Based on directives that the Commission issues, all contestant candidates shall cease election campaign activities three days before Election Day

## **Chapter Eight: Election**

### **Article 46. Election Posts:**

The Commission shall establish election posts, the circumstances and conditions under which they operate, and any other necessary requirements;

### **Article 47. Election Day:**

Unless the Commission decides, under exceptional circumstances, that election is held in specific posts on a different

day, all election posts shall start operating on the same day.

#### **Article 48. Voting rules:**

- 48.1 All voters shall cast their vote in person;
- 48.2 A voter shall vote only once;
- 48.3 A voter shall not be forced to declare for whom he intends to vote or for whom he voted;
- 48.4 A voter shall vote only in the election post where he registered

#### **Article 49. Protection of election posts**

The police shall take the necessary steps, in accordance with directives that the Commission issues, to ensure the security and safety of election posts.

#### **Article 50. Voting procedures:**

The Commission shall issue laws that govern the identification of the identity and signature of voters, issuance of voting cards, casting votes, dealing with destroyed voting cards, the safety of ballot boxes, and other similar processes that relate to voting procedures.

#### **Article 51. The handicapped and illiterate voters**

- 51.1 The blind and handicapped voters shall be assisted to cast their vote by persons of their choice;
- 51.2 Illiterate voters shall cast their vote through fingerprints that they shall imprint on a specific box on the symbol of the candidate they select

#### **Article 52. Advance voting**

The Commission shall issue directives for members of the defense forces, police, security and Eritreans residing abroad to vote seven (7) days before Election Day.

#### **Article 53. Counting advance votes**

Notwithstanding Article 56 of this proclamation, advance votes shall be counted together with the votes collected on Election Day.

#### **Article 54. Voting through an agent**

Notwithstanding Article 11 of this proclamation, the following shall be able to vote through agents:

- a) Persons under medical care in hospital or at home;
- b) Seriously injured and physically incapable persons;
- c) Employees who cannot leave their place of work during Election Day;
- d) Persons who have traveled abroad temporarily;
- e) Persons who are under police custody

#### **Article 55. Power of attorney**

- 55.1 Persons who cannot move for medical or physical reasons shall issue power of attorney in the presence of a representative of the Commission;
- 55.2 Employees who cannot leave their work place shall issue power of attorney in the presence of a work supervisor;
- 55.3 Persons who have traveled abroad temporarily shall issue power of attorney at the Eritrean consulate or Embassy;
- 55.4 Persons who are under police custody shall issue power of attorney in the presence of the officer in charge of the police station;

- 55.5 Witnesses to the power of attorney, issued according to this article, shall sign, and put, official seal on the delegation document

### **Article 56. Counting Votes and Declaring Results**

- 56.1 At the conclusion of the voting process, votes shall be counted immediately in all election posts based on directives that the Commission issues;
- 56.2 After finishing counting, the voting boxes shall be sealed and transferred to sub-regional electoral office;
- 56.3 Results of counting at the election post shall be declared to the public immediately;
- 56.4 Sub-regional electoral offices shall immediately re-count the votes and, based on the count approve the result of the election post, correct the result or reject the count result and declare the outcome to the public

### **Article 57. Official Election result declaration**

The Commission shall immediately declare the official outcome after concluding the election process and the collecting all necessary documents

### **Article 58. Presenting reports**

The Commission shall present to the National Assembly a detailed report on the electoral process and outcome of the elections.

### **Article 59. Side elections**

If an elected representative's tenure ends for whatever reason, over a year before the end of the tenure of the National Assembly, side elections shall be conducted within a period not exceeding three months to replace the outgoing representative.

## **Chapter Nine: Objecting the election process**

### **Article 60: Time limit**

Unless this proclamation provides otherwise, any objection to the election process shall be reported in writing and within twenty-four hours.

### **Article 61. Opposing the registration process**

- 61.1 A voter who has been denied the right to register to vote shall immediately present his complaint to the sub-regional electoral office, which must respond to the complaint within twenty-four hours;
- 61.2 If not satisfied by the sub-regional electoral office's decision, the person shall appeal to the regional court. The regional court shall issue a prompt and final decision.

### **Article 62. Opposing the nomination process**

- 62.1 A person who has been denied the right to register as a nominee (candidate) shall immediately present a complaint to the regional electoral office, which shall respond to the complaint within forty-eight hours;
- 62.2 If not satisfied by the regional electoral office's decision, the person shall appeal to the Supreme Court. The Supreme Court shall issue a prompt and final decision.

### **Article 63. Opposing the voting process**

- 63.1 A person who has been denied the right to vote shall within five hours present a complaint to the regional electoral office, which shall decide on the complaint immediately;
- 63.2 If not satisfied by the regional electoral office's decision, considering the election time limit, the person shall appeal to the Supreme Court. The Supreme Court shall issue a prompt and final decision.

### **Article 64. Opposing the vote counting process**

- 64.1 A person who objects the vote counting process or the count result shall present a complaint to the Commission;

64.2 If not satisfied by the Commission's decision, the person shall appeal to the Supreme Court. The Supreme Court shall issue a final decision.

### **Article 65. Authority of the Commission**

65.1 The Commission shall have the authority to order the suspension of activities that contravene with this Proclamation during the election process, that it detects through complaints or its own investigations;

65.2 The Commission shall have the authority to suspend, cancel or declare invalid the outcome of an election and carry out another election if it has sufficient evidence to believe that there have occurred fraudulent activities that could change the election outcome;

65.3 To effectively discharge of the authority, bestowed on it by this article, the Commission shall have the power to summon any person who possesses evidence, or to call responsible individuals or government departments to present any document or evidence that it deems necessary;

65.4 A person who is not satisfied by the Commission's decision shall have the right to appeal to the Supreme Court. The Commission's decision shall remain in force until and unless the Supreme Court decides otherwise.

65.5 The Commission shall refer to the relevant authorities, for legal action, any act that violates the provisions of the criminal code of Eritrea.

## **Chapter Ten: Miscellaneous Provisions**

### **Article 66. Budget of the Commission**

The Commission shall have a budget approved by the National Assembly. The budget shall be disbursed according to the financial regulations of the Government of Eritrea.

### **Article 67. Duty to Cooperate**

All government offices, private organizations and individuals shall be obliged to cooperate in the implementation of this proclamation. Refusing to cooperate shall be punishable by law.

### **Article 68. Penalties**

Violation of the provisions of this proclamation shall be punishable in accordance with the Penal Code of Eritrea.

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