

DRAFTING NOTE

PRESIDENTIAL ELECTION ACT

System	Useful lesson	Adaptation for Eritrea
South Africa	The Chief Justice presides; nominations are formally accepted; voting is secret; the lowest candidate is eliminated through successive ballots.	Adopt judicial presiding, formal nominations, secret ballots and elimination, but reject automatic election of a sole candidate because Eritrea requires an absolute majority of all members.
Botswana	A legislative presidential election uses prior written nominations, secret ballots, a majority of all eligible members, limited election business and scheduled sittings.	Adopt written consent, confidential ballots and dedicated sittings. Do not adopt automatic dissolution after deadlock because the Eritrean Constitution grants no such dissolution power.
Germany	The Bundestag elects the head of government by secret ballot and requires an absolute majority of the statutory membership in the decisive constitutional	Use the fixed-membership majority and protect ballot secrecy. Do not import a later plurality phase because Eritrea's Constitution never permits election below an absolute majority.
Switzerland	Repeated secret ballots and elimination encourage convergence while protecting legislators from coercion.	Use progressive elimination while more than two candidates remain, followed by structured consultation and renewed ballots between finalists.

DRAFTING NOTE AND CONSULTATION DRAFT

1. Constitutional foundation

This draft implements, but does not revise, the presidential-election system established by the Constitution of Eritrea 1997. Article 32(8) gives the National Assembly power to elect the President from among its members by an absolute majority of all members. Article 40 limits candidacy to a member who is an Eritrean citizen by birth. Article 41(1) repeats the absolute-majority requirement and requires a candidate to be nominated by at least twenty percent of all Assembly members. Article 41(2)–(5) fixes the term, limits a person to two terms, and requires a replacement election within the thirty-day acting presidency following a vacancy. Article 41(7) expressly leaves the election procedure to the National Assembly. Articles 34, 36 and 37 provide the surrounding rules on the Chairperson, sittings, quorum, committees, the Secretariat and evidence.

The constitutional expression “absolute majority vote of all its members” means more than one-half of the members lawfully holding office. It is not a majority of members present, ballots cast or valid ballots. A vacant seat is not itself a member, but absence, abstention, suspension that does not vacate the seat, and an invalid ballot do not reduce the threshold. The Act directs the Clerk to certify the membership and publish the exact threshold before nominations open and again before each ballot. If the intended constitutional meaning was instead a majority of the full number of authorized seats whether filled or vacant, that stricter rule should be stated by constitutional amendment rather than inferred by ordinary legislation.

A candidate must first obtain nomination support from at least twenty percent of all members. The draft interprets this as signed support by the required number, rounded upward to the next whole member. Each member may support only one nomination during a nomination

cycle. That makes the threshold real, prevents the same members from manufacturing numerous nominal candidacies, and ensures that no more than five candidates can qualify. A sponsor remains free to vote differently by secret ballot because nomination support establishes access to the ballot, not an enforceable voting commitment.

2. Why the election should be judicially presided over

The Chairperson of the National Assembly is the obvious ordinary presiding officer, but may also be a presidential candidate and becomes acting President when a midterm vacancy occurs. Allowing the Chairperson to control nominations, ballot rulings and the count would create an avoidable conflict. The draft therefore assigns the election to the Chief Justice, or another Supreme Court Justice designated under the Act. This is procedural, not political: the presiding Justice cannot vote, assess political suitability or alter the constitutional threshold. South Africa uses the same basic safeguard for the National Assembly's election of its executive President.

The Judicial Service Commission Act and Courts Act seek to build an independent Supreme Court. That institutional independence is essential here. A judge presiding over the election must not later sit in a challenge to that election. The draft accordingly assigns any election petition to a separate bench and confines review to eligibility, legality, ballot integrity and material procedural compliance. The Court may not select a President or lower the constitutional majority.

3. Comparative lessons

The central comparative lesson is that an indirect election needs both independence of judgment and a disciplined path to a majority. Secret voting protects members from retaliation and private coercion. Public nominations, candidate disclosures and public questioning provide transparency. Successive elimination prevents indefinite fragmentation. None of those devices may override Eritrea's fixed constitutional requirements.

4. Design for an Assembly without mature parties

Many parliamentary-election systems assume organized parties that nominate a leader, negotiate a coalition and enforce a voting agreement. This draft does not. Every member acts as a representative of the Eritrean people as a whole under Article 31(4), guided by the Constitution, the national interest and conscience. Candidacy, questioning, consultation and voting are therefore organized around individual members rather than parliamentary parties, party leaders or whips.

The draft creates a public candidate forum before voting. Each candidate receives equal time to present a governing programme and answer questions on constitutional government, institution building, security, public administration, the economy, regional peace and fundamental rights. Members may negotiate policy understandings, but any written governing compact must be published. Promises of money, employment, contracts, immunity,

appointments or personal benefits in exchange for nomination support or a vote are prohibited.

Ballot secrecy is treated as an institutional safeguard rather than a personal convenience. No member may photograph, mark for identification, display or prove a ballot. A candidate or powerful official should not be able to demand evidence of loyalty after the election. At the same time, the total votes, invalid ballots, unissued ballots and reconciliation record are public, and candidate agents observe printing, sealing, voting and counting.

5. Deadlock and constitutional limits

The most difficult issue is deadlock. The Constitution requires an absolute majority but does not authorize election by plurality, dissolution of the Assembly, a popular runoff or extension of the acting presidency beyond thirty days. An ordinary Act cannot invent any of those solutions. The draft therefore uses elimination, adjournments, facilitated consultation, a reopened nomination cycle where necessary, continuous sittings and expedited judicial enforcement. The Assembly remains under a duty to elect; time does not lower the threshold.

For a midterm vacancy, Article 41(4) makes the Chairperson acting President for no more than thirty days. The draft requires the election calendar to finish well before that deadline and restricts adjournments accordingly. It cannot lawfully say who becomes President on day thirty-one if the Assembly fails. That is a genuine constitutional gap. A separate constitutional amendment could provide a narrow continuation rule or another temporary successor, but this Act does not pretend that ordinary legislation can cure the omission.

A related gap concerns the transition between a general election and the presidential election by the new Assembly. The Constitution links both terms but does not state expressly whether the outgoing President remains as caretaker until the successor takes the oath. The draft requires the new Assembly to elect promptly and avoids creating a presidential tenure not found in the Constitution. This question should be addressed expressly in a future constitutional clarification.

6. Principal safeguards

The proposed safeguards are: a neutral judicial presiding officer; published thresholds and timetable; single-use nomination endorsements; proof of citizenship by birth and membership; candidate consent and disclosures; equal public presentations; protection of independent members; secret paper or verifiable electronic ballots; candidate agents; reconciliation and recount rules; elimination without lowering the majority; bans on bribery and misuse of State resources; a prompt Supreme Court petition; preservation of ballot materials; and publication of the complete non-secret election record.

The Act deliberately does not regulate presidential removal. Removal under Article 41(6) is an adjudicatively different process involving specified grounds, a two-thirds vote of all members and, for some grounds, Supreme Court adjudication under Article 49(2)(b). It should be governed by separate legislation or a separate chapter adopted after focused study.

7. Principal comparative sources

South Africa: Constitution of the Republic of South Africa, section 86 and Schedule 3, Part A, published by the Department of Justice and Constitutional Development. These provisions supply the clearest model for judicially presided nominations, secret balloting and successive elimination in a legislature electing an executive President.

Botswana: Constitution of Botswana, especially sections 32, 35 and 38, published by the Parliament of Botswana. The relevant provisions illustrate prior written nomination support, a secret legislative ballot, a majority measured against the full voting membership and specially convened vacancy elections.

Germany: Basic Law, Article 63, and the German Bundestag's official explanation, "Election of the Federal Chancellor." The German procedure confirms the value of a secret ballot and an absolute majority of the statutory membership for election of the head of government.

Switzerland: Federal Act on the Federal Assembly and the Swiss Federal Government's official explanation, "Federal Council Election." Swiss practice demonstrates repeated secret ballots and progressive elimination, although its collegial executive and majority calculation differ from Eritrea's Constitution.

For publication following enactment by the National Assembly

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. [____] OF 2026

PRESIDENTIAL ELECTION ACT

(ASSEMBLY ACT)

TO PROVIDE FOR THE NOMINATION AND ELECTION BY THE NATIONAL ASSEMBLY OF THE PRESIDENT OF ERITREA; TO SECURE A LAWFUL, SECRET, FAIR, TRANSPARENT AND CONCLUSIVE BALLOT; TO REGULATE AN ELECTION FOLLOWING A GENERAL ELECTION OR A VACANCY IN THE OFFICE OF PRESIDENT; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Articles 32(8) and 41(1) of the Constitution of Eritrea require the National Assembly to elect the President from among its members by an absolute majority vote of all its members;

WHEREAS Article 40 requires a presidential candidate to be a member of the National Assembly and an Eritrean citizen by birth, and Article 41(1) requires nomination support from at least twenty percent of all Assembly members;

WHEREAS Article 31(4) requires every member to act as a representative of the Eritrean people as a whole, guided by the Constitution, the interests of the people and country, and conscience;

WHEREAS Articles 36 and 41(7) authorize the National Assembly to regulate its proceedings and determine the procedure for election of the President;

WHEREAS a presidential election should protect the independence of members, the secrecy and integrity of the ballot, equal treatment of candidates, public confidence and the uninterrupted operation of constitutional government;

NOW, THEREFORE, the National Assembly of Eritrea enacts as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

This Act may be cited as the Presidential Election Act, 2026.

Article 2 — Commencement

This Act enters into force on the date of its publication in the Gazette.

Article 3 — Objects

1. This Act gives effect to Articles 32(8), 40, 41 and 45 of the Constitution by establishing a complete procedure for nomination, scrutiny, voting, declaration and oath.
2. It protects equality of candidates, the independent judgment of members, ballot secrecy, electoral integrity, public information, timely completion and judicial review of legality.

Article 4 — Interpretation

1. In this Act, “absolute majority” means the smallest whole number greater than one-half of all persons lawfully holding office as members of the National Assembly; “candidate” means a member whose nomination has been accepted under Article 17; “election sitting” means a sitting convened solely or principally to elect the President; “member” means a person lawfully holding office as a member and entitled to vote; “presiding Justice” means the Chief Justice or a Justice acting under Article 9; and “Secretariat” means the Secretariat of the National Assembly.
2. A vacant seat is not a member, but absence, abstention, an invalid ballot or a suspension that does not vacate the seat does not reduce the number constituting all members or the absolute majority.
3. Words importing one gender include every gender, and gender-neutral language in this Act does not alter the meaning of the Constitution.

Article 5 — Constitutional requirements

1. Only a serving member who is an Eritrean citizen by birth and has not been elected President for two terms may be a candidate.
2. A candidate requires nomination support from at least twenty percent of all members and election by an absolute majority of all members.
3. No provision of this Act authorizes election by a lower threshold, acclamation, plurality, lot, rotation or approval by silence.

Article 6 — Independent constitutional judgment

A member shall perform every function under this Act as a representative of the Eritrean people as a whole, guided by the Constitution, the interests of the people and country, and the member’s conscience, and no instruction by a party, association, officeholder, military authority, employer, donor or other person binds the member’s nomination support or vote.

CHAPTER II ELECTION AUTHORITY AND ADMINISTRATION

Article 7 — Election authority

1. The presidential election is an act of the National Assembly exercising its constitutional electoral power.

2. The presiding Justice administers the procedure impartially but does not become a member of the Assembly, does not vote and shall not determine political suitability.

Article 8 — Chief Justice to preside

1. The Chief Justice shall preside over every presidential election and shall announce the timetable, rule on procedure, supervise voting and counting, certify results and declare the person elected.
2. The Chief Justice shall act independently and shall not consult a candidate concerning a ruling except in a proceeding in which every candidate has equal notice and opportunity to be heard.

Article 9 — Substitute presiding Justice

1. If the Chief Justice is absent, incapacitated, recused, a candidate, or otherwise unable to act, the longest-serving available permanent Justice of the Supreme Court who is not disqualified shall preside.
2. If seniority is equal, precedence is determined by the date and time of oath and then by seniority in legal service.
3. The reason for substitution and identity of the presiding Justice shall be published.

Article 10 — Election administration team

1. The Clerk shall establish a politically neutral election administration team drawn from the Secretariat and, where necessary, the Electoral Commission.
2. The team shall prepare forms, receive nominations, verify records, arrange secure ballots, maintain the register, conduct the count under direction of the presiding Justice and preserve materials.
3. Every administrator shall sign declarations of impartiality, confidentiality and conflict of interest.

Article 11 — Observers and candidate agents

1. Each candidate may appoint one member as an agent and one alternate to observe ballot preparation, sealing, issue, voting, reconciliation, counting, recount and preservation.
2. The presiding Justice may accredit independent domestic observers who do not interfere with proceedings or compromise ballot secrecy.
3. Proceedings other than the marking of individual ballots shall be recorded and publicly transmitted so far as security and reliable operation permit.

Article 12 — Calculation and publication of thresholds

1. The Clerk shall certify the total legal membership, the twenty-percent nomination threshold and the absolute-majority election threshold before nominations open.
2. A fraction in the nomination calculation is rounded upward to the next whole member.

3. The certification shall be published and announced before each ballot, and a change shall be made only by a reasoned ruling based on law and recorded facts.

CHAPTER III TIMING AND CALLING OF ELECTION

Article 13 — Election after general election

1. After the Chairperson has been elected at the first meeting under Article 34 of the Constitution, the presidential nomination period shall open immediately.
2. The presidential election shall be completed not later than the seventh day after election of the Chairperson and before the Assembly conducts ordinary business other than organizational acts indispensable to the election.
3. The Clerk shall notify all members of the provisional election calendar before the first session.

Article 14 — Election following vacancy

1. When the presidency becomes vacant under Article 41(4), the Chairperson shall notify the Chief Justice and Clerk immediately, and the Clerk shall publish the vacancy.
2. The election sitting shall begin not later than the seventh day after the vacancy and shall be conducted to elect a President within the thirty-day constitutional acting period.
3. Recess, adjournment or an incomplete ordinary agenda shall not delay the election.

Article 15 — Notice of election

1. The presiding Justice shall publish the nomination opening and closing times, candidate forum, election sitting, ballot intervals and all applicable deadlines.
2. Every serving member shall receive direct notice through at least two reliable communication methods.
3. Failure of a member to receive actual notice does not invalidate the election if reasonable notice was properly issued and the failure did not materially affect the result.

Article 16 — Election business has priority

1. During an election sitting, no business shall be taken except the presidential election, an oath, an urgent measure strictly necessary to preserve life or constitutional order, or a procedural matter indispensable to the election.
2. The Assembly and Secretariat shall give the election priority over every business that can lawfully wait.

CHAPTER IV NOMINATIONS AND ELIGIBILITY

Article 17 — Nomination form

1. A nomination shall identify the candidate and contain the candidate's signed consent, proof of membership and citizenship by birth, term-history declaration, interests declaration, curriculum vitae and the signatures of the required number of supporting members.
2. The form shall state that nomination support does not bind the supporter's secret vote and that bribery, coercion and disclosure of a marked ballot are prohibited.
3. The candidate shall certify that the information is complete and accurate.

Article 18 — Nomination support

1. A member may support one candidate only during a nomination cycle and shall sign personally or by a secure authenticated electronic method.
2. A candidate may count as one supporter of the candidate's own nomination.
3. A duplicate supporter shall be counted for the first valid nomination received unless the member withdrew that support in writing before the nomination deadline.
4. The names of supporting members shall be published after nominations close.

Article 19 — Nomination period

1. For an election after a general election, nominations remain open for not less than forty-eight hours and not more than four days.
2. For a vacancy election, nominations remain open for not less than twenty-four hours and not more than three days.
3. The presiding Justice may extend the period once for not more than twenty-four hours where no nomination qualifies or an unavoidable event materially impairs access.

Article 20 — Examination of nominations

1. The election administration team shall examine each nomination for timely filing, consent, eligibility documents, supporter threshold and duplicate support.
2. A correctable formal deficiency shall be notified immediately and may be cured before the deadline.
3. The team shall report to the presiding Justice, who shall accept or reject the nomination by a brief reasoned ruling after giving the affected person an opportunity to respond.

Article 21 — Eligibility objections

1. A member or candidate may file a documented objection concerning membership, citizenship by birth, term limit, consent or nomination support within twelve hours after publication of provisional candidates.
2. The affected candidate shall receive the objection and at least twelve hours to respond unless the constitutional deadline requires a shorter but fair period.
3. The presiding Justice shall decide the objection for purposes of administering the ballot, subject to judicial review under Chapter XI.

Article 22 — Final candidate list

1. After deciding objections, the presiding Justice shall publish the final candidate list in alphabetical order determined by surname or another neutral published convention.
2. Ballot position shall be determined by public lot and rotated or otherwise neutralized where the voting system permits.
3. No person may be added after publication except by order of the Supreme Court or in a reopened nomination cycle.

Article 23 — Withdrawal or death

1. A candidate may withdraw by signed notice before a ballot begins, and the withdrawal is final for that nomination cycle.
2. If a candidate withdraws, dies or becomes ineligible before voting, ballots shall be corrected or reprinted and members informed.
3. If the event occurs after voting begins but before declaration and could affect the result, the ballot is void and a new ballot shall be conducted among the remaining eligible candidates.

CHAPTER V

CANDIDATE INFORMATION AND PUBLIC FORUM

Article 24 — Publication of candidate record

1. The Clerk shall publish each candidate's curriculum vitae, proof of constitutional eligibility, declaration of interests, term-history declaration, governing statement and names of nomination supporters.
2. Protected identity numbers, home addresses, medical information and information creating a substantial safety risk shall be redacted unless indispensable to resolving eligibility.
3. A candidate shall promptly correct a material error.

Article 25 — Governing statement

1. Each candidate shall submit a concise statement explaining the candidate's understanding of Articles 39 and 42 of the Constitution, governing priorities, intended approach to institution building, public administration, national security, economic development, regional relations and fundamental rights.
2. The statement shall identify any proposed written governing compact or agreement with members and shall not promise an unlawful act.

Article 26 — Candidate forum

1. At least one public candidate forum shall be held after publication of the final candidate list and before the first ballot.
2. Every candidate shall receive equal time for an opening statement, member questions and a closing statement, in an order determined neutrally.

3. Questions shall concern constitutional responsibility, competence, integrity, policy, leadership and the candidate's public record and shall be asked with dignity and relevance.
4. The forum informs members and the public but is not a committee approval hearing or a vote.

Article 27 — Public information and submissions

1. Citizens and organizations may submit relevant, reasonably supported information concerning constitutional eligibility, integrity or public record by the published deadline.
2. Material adverse information shall be given to the candidate for response and shall not be treated as established without reasonable verification.
3. Anonymous information may trigger verification but shall not alone support an adverse eligibility ruling.

Article 28 — Equal access and State neutrality

1. The Assembly shall provide candidates equal access to official election facilities, communications, translation, accessibility assistance and security.
2. No public body shall use State money, personnel, vehicles, media, intelligence, military authority or administrative power to favor or injure a candidate, except for equal lawful services and security.
3. An incumbent President, acting President, Minister or other official shall not direct a public employee to campaign in an official capacity.

CHAPTER VI BALLOT AND COUNT

Article 29 — Secret ballot

1. Every presidential vote shall be by secret ballot conducted so that no person can discover how a particular member voted.
2. A member shall vote personally and shall not vote by proxy, delegation or instruction.
3. A candidate who is a member retains the right to vote.

Article 30 — Ballot method

1. Voting shall ordinarily use a uniformly printed paper ballot bearing every remaining candidate and an option to abstain.
2. A secure electronic system may be used only if independently tested, approved by two-thirds of all members before nominations open, capable of a voter-verifiable paper record, accessible, auditable and incapable of linking a voter to a choice.
3. A failure of electronic voting requires immediate use of paper ballots and does not lower the majority.

Article 31 — Protection of secrecy

1. A member shall enter the voting place alone, mark one choice in private, fold or secure the ballot and deposit it personally.
2. Photography, recording, display, distinctive marking, removal of a ballot, demand for proof of vote and disclosure compelled by another person are prohibited.
3. Reasonable assistance may be provided to a member with disability by two neutral officers in the presence of an agent chosen by the member, without disclosing the vote.

Article 32 — Issue and reconciliation

1. A ballot shall be issued only after the member's identity is verified and attendance recorded.
2. The register shall record that a ballot was issued but never the vote cast.
3. Before counting, officers shall reconcile ballots printed, received, issued, spoiled, unused and found in the ballot box and shall explain any discrepancy publicly.

Article 33 — Valid and invalid ballots

1. A ballot is valid if the voter's intention for one candidate is clear and the ballot contains no identifying mark.
2. A ballot selecting more than one candidate, identifying the voter, lacking an official security feature or failing to express a choice for one candidate is invalid.
3. An abstention ballot and an invalid ballot do not count for a candidate and do not reduce the absolute majority required.

Article 34 — Counting and result record

1. Ballots shall be counted immediately in the presence of the presiding Justice, candidates or agents and accredited observers.
2. The count shall record votes for each candidate, abstentions, invalid ballots, issued ballots, unused ballots and the absolute-majority threshold.
3. The presiding Justice shall sign and publish the result record after inviting agents to note an objection.

Article 35 — Recount

1. A candidate may request one recount before certification by identifying a counting or reconciliation issue, and the presiding Justice shall order a recount if the issue could affect election, elimination or ballot validity.
2. The presiding Justice may order a recount without request where the margin is five votes or fewer or a material discrepancy exists.
3. The recount result replaces the first count and shall be recorded fully.

CHAPTER VII

SUCCESSIVE BALLOTS AND DEADLOCK

Article 36 — Election threshold

1. A candidate receiving the absolute majority shall be declared elected, subject to resolution of a recount requested under Article 35.
2. Where one candidate alone appears on the ballot, members shall vote for that candidate or abstain, and the candidate is elected only upon receiving the absolute majority.
3. No presiding officer may declare a candidate elected by acclamation.

Article 37 — Elimination while three or more remain

1. If no candidate is elected and three or more candidates remain, the candidate receiving the fewest votes is eliminated and a further ballot shall be held.
2. If candidates tie for the fewest votes, a separate secret elimination ballot shall be held among them; the candidate receiving the fewest votes in that ballot is eliminated.
3. If the elimination ballot remains tied after two votes, all tied candidates remain for one further ordinary ballot before the elimination procedure is repeated.

Article 38 — Final two candidates

1. When two candidates remain and neither receives the absolute majority, the Assembly shall adjourn for a structured consultation period of not less than twelve and not more than forty-eight hours.
2. The candidates may address members jointly or separately on published terms, and members may facilitate a public governing understanding that involves policy but no personal inducement.
3. A further secret ballot shall then be held between the two candidates.

Article 39 — Reopening nominations

1. If neither finalist is elected after three ballots between them, the presiding Justice shall declare the nomination cycle exhausted and reopen nominations.
2. An exhausted finalist may be nominated again only with a fresh set of supporters meeting Article 18 and a written statement addressing the deadlock.
3. The new nomination period shall not exceed forty-eight hours after a general election or twenty-four hours during a vacancy election.

Article 40 — Continuous constitutional duty

1. Failure of a ballot or nomination cycle does not authorize election below the absolute majority, dissolution of the Assembly, extension of an acting presidency or abandonment of the election.

2. The presiding Justice shall keep the Assembly in session or adjourn it only for the shortest period reasonably required for consultation, worship, rest, nomination, adjudication or secure ballot preparation.
3. During a vacancy election, every timetable shall be compressed fairly to complete the election within thirty days.

Article 41 — No candidate qualifies

1. If no candidate obtains the nomination threshold, the presiding Justice shall publish that fact, permit a consultation period and reopen nominations.
2. The Chairperson shall facilitate equal meetings among members without proposing a candidate in an official capacity unless personally acting as a member and disclosed as such.
3. No official may waive, reduce or evade the twenty-percent threshold.

CHAPTER VIII DECLARATION, OATH AND ASSUMPTION OF OFFICE

Article 42 — Declaration of election

1. When a candidate receives the absolute majority, the presiding Justice shall declare publicly that the member is elected President and state the vote totals and constitutional threshold.
2. The Clerk shall prepare an election certificate signed by the presiding Justice and publish it immediately with the result record.

Article 43 — Oath

1. The President-elect shall take the oath prescribed by Article 45 of the Constitution before the National Assembly as soon as practicable and ordinarily on the day of election.
2. The Chief Justice or presiding Justice shall administer the oath, and the signed oath shall be preserved and published.
3. The President-elect shall not exercise presidential power before taking the oath.

Article 44 — Effect on Assembly seat

1. Election as President does not, by itself, vacate the person's seat because Articles 40 and 41 require election from among members and the Constitution does not declare the two offices incompatible.
2. The President remains subject to the constitutional duties of membership except to the extent that exercise of a particular parliamentary function would be incompatible with presidential office.
3. Any different rule requires a constitutional amendment and shall not be created by Standing Orders.

Article 45 — Term certification

1. For an election following a general election, the certificate shall state that the term is five years equal to the term of the electing Assembly under Article 41(2).
2. For an election following a vacancy, the certificate shall identify the unexpired term under Article 41(4) and state that it is not a full term for Article 41(3).
3. The Clerk shall maintain a public register of presidential terms and partial terms.

CHAPTER IX INTEGRITY AND PROHIBITED CONDUCT

Article 46 — Bribery and improper inducement

1. No person shall offer, promise, give, solicit or accept money, property, employment, appointment, contract, immunity, favor, threat withdrawal or personal benefit in exchange for nomination support, withdrawal, abstention or a vote.
2. A public policy commitment or published governing agreement is not an improper inducement unless it confers a private or unlawful benefit.
3. A suspected offence shall be referred promptly to the competent prosecuting authority without allowing an accusation alone to alter the ballot.

Article 47 — Coercion and retaliation

1. No person shall use or threaten force, detention, prosecution, dismissal, surveillance, military command, withdrawal of public service, reputational harm or another unlawful disadvantage to influence an election act.
2. No member shall be required to disclose a vote, and an adverse act based on an actual or suspected vote is prohibited.
3. The Assembly shall provide confidential reporting, immediate protection and an independent investigation mechanism.

Article 48 — False information and concealment

1. A candidate shall not knowingly submit a false material declaration or conceal a fact that establishes constitutional ineligibility.
2. A person shall not knowingly fabricate or publish a material falsehood about a candidate for the purpose of corrupting the election.
3. Good-faith opinion, criticism, error, journalism and submission of reasonably believed information remain protected.

Article 49 — Use of public resources

1. A person who controls a public resource shall maintain neutrality and equal treatment under Article 28.

2. Official security necessary for a candidate shall be provided on equal and professionally assessed terms.
3. A material misuse shall be disclosed in the election record and may support judicial or other lawful relief, but shall not disenfranchise members.

Article 50 — Offences and penalties require separate enactment

1. Conduct prohibited by Articles 31 and 46–49 is unlawful and may support injunction, discipline, election relief or prosecution under an applicable penal law.
2. This Act does not impose imprisonment or a fine unless a consequential penal amendment enacted with it expressly defines the offence, fault element, defence and penalty.
3. The absence of a new criminal penalty does not validate prohibited conduct.

CHAPTER X RECORDS AND TRANSPARENCY

Article 51 — Public election record

1. The Clerk shall publish the timetable, thresholds, nomination forms except protected information, supporter names, candidate materials, rulings, forum record, observer list, aggregate results, reconciliation, recount, election certificate and oath.
2. No record may disclose how an individual member voted or contain information removed to protect ballot secrecy.

Article 52 — Preservation of ballots

1. Ballots, counterfoils, registers, seals, electronic audit records and count sheets shall be sealed and preserved securely for not less than one year after the petition period ends.
2. The materials may be opened only by order of the Supreme Court or for a public archival transfer that cannot reveal individual votes.
3. Destruction after the retention period shall be witnessed, documented and conducted so that secrecy survives.

Article 53 — Correction and audit trail

1. A clerical error in a published record may be corrected by a notice preserving the original and explaining the correction.
2. A result record or certificate may be altered only after recount, judicial order or proof of a transcription error accepted by the presiding Justice in the presence of candidate agents.
3. Every access, copy, transfer, correction and destruction of protected election material shall be logged.

CHAPTER XI

ELECTION PETITIONS AND REMEDIES

Article 54 — Right to petition

1. A candidate or not fewer than ten members may petition the Supreme Court concerning constitutional eligibility, nomination compliance, bribery, coercion, ballot secrecy, counting, threshold, declaration or another material illegality.
2. The petition shall be filed within three days after declaration, or within three days after discovery of concealed fraud that could not reasonably have been discovered earlier.
3. The petition shall identify the alleged violation, supporting facts and relief requested and shall be served immediately on the President-elect, presiding Justice and Clerk.

Article 55 — Election bench and expedition

1. The Chief Justice and presiding Justice shall not sit on the petition, which shall be heard by an odd-numbered bench of at least three other Supreme Court Justices.
2. The Court shall hear the matter continuously and decide within seven days so far as justice permits.
3. The election record shall be supplied immediately, subject to measures protecting ballot secrecy.

Article 56 — Standard and scope of review

1. The Court may review constitutional eligibility, authority, mandatory procedure, corruption, coercion, secrecy, count accuracy and whether an irregularity could materially affect the result.
2. The Court shall not inquire into how a member voted, compel disclosure of a vote, evaluate political wisdom or substitute its preferred candidate.
3. A technical irregularity that could not affect eligibility, secrecy, fairness or result does not invalidate the election.

Article 57 — Remedies

1. The Court may dismiss the petition, correct a record, order a recount, require a procedural step, disqualify an ineligible candidate, set aside a ballot or election, order a new ballot or nomination cycle, declare rights, protect evidence or grant another constitutionally appropriate remedy.
2. The Court may not declare a person elected without proof that the person actually received the constitutional absolute majority in a lawful ballot.
3. Where an election is set aside, the Court shall preserve official acts reasonably necessary to protect constitutional continuity and innocent third parties unless doing so would perpetuate the violation.

Article 58 — Effect pending petition

1. Filing a petition does not automatically suspend the oath or exercise of office.
2. The Court may issue a narrowly tailored interim order where there is a strong prima facie case and suspension is necessary to prevent irreparable constitutional harm.
3. The Court shall give exceptional weight to continuity, the short decision period and the possibility of final corrective relief.

CHAPTER XII RULES AND FINAL PROVISIONS

Article 59 — Election Rules

1. The Chief Justice, after consultation with the Chairperson, Clerk, Electoral Commission and public, may issue Election Rules consistent with the Constitution and this Act concerning forms, secure administration, observers, candidate forums, ballots, accessibility, counting, recounts, records and petitions.
2. Election Rules shall be published and shall not alter eligibility, nomination or election thresholds, confer a vote, permit identification of a ballot or create a plurality phase.
3. A rule affecting an imminent election shall be issued before nominations open unless strictly necessary to address an unforeseen threat to integrity.

Article 60 — Relationship with Standing Orders

1. The Standing Orders apply to an election only to the extent consistent with the Constitution, this Act and Election Rules.
2. A procedural ruling of the presiding Justice controls the election sitting, subject to judicial review, and is not appealable to the Chairperson or Assembly.
3. The Assembly may not suspend a provision protecting threshold, eligibility, secrecy, equality, integrity, records or review.

Article 61 — Contingency planning

1. The Secretariat shall maintain tested plans for power failure, communications failure, cyberattack, fire, violence, evacuation, disability accommodation, language access, loss of ballots and simultaneous absence of constitutional officers.
2. A contingency shall preserve personal voting, secrecy, the constitutional majority, observation, reconciliation and a reliable paper record.
3. If those essentials cannot be protected, the presiding Justice shall suspend and resume the ballot at the earliest safe time.

Article 62 — First election preparation

1. Within ninety days after commencement, the Chief Justice and Clerk shall publish forms, procedures and a public simulation of the ballot and count.

2. The Electoral Commission and Auditor General may independently test security, accessibility, procurement and record controls and publish recommendations that do not disclose exploitable security details.
3. Preparation shall not favor or identify a prospective candidate.

Article 63 — Review of Act

1. Within six months after each presidential election, a committee of the Assembly shall review administration of this Act and invite candidates, members, administrators, observers, courts, civil society and the public to submit evidence.
2. The review shall protect ballot secrecy and shall recommend only improvements consistent with the Constitution.
3. No amendment proposed during a pending election applies to that election unless necessary to cure an adjudicated constitutional defect and enacted without favoring a candidate.

Made at Asmara this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA