

DRAFTING NOTE

BUILDING AND CONSTRUCTION ACT 2026

1. Status and purpose of this note

This drafting note is explanatory and is not part of the proposed Assembly Act. It identifies the legislative need, the relationship with earlier Eritrean law, the principal matters retained, the modernization choices made and the place of the draft within the emerging constitutional statute book. The instrument remains a consultation draft and should be finalized only after legal, institutional, fiscal and public review.

2. Legislative need and prior law

The supplied corpus identifies Proclamation 147/2005 as the principal predecessor. Eritrea requires a clearer national system linking construction, land use, professional competence, safety, accessibility and local permitting.

3. What the draft retains

The draft retains permits, technical standards, inspection, contractor responsibility and protection against unsafe structures.

4. What the draft updates and modernizes

It adds risk-based approvals, electronic applications, transparent fees and time limits, fire and disability access, professional accountability, modern materials and methods, climate resilience, occupancy controls and court-supervised enforcement.

5. Constitutional, code and treaty fit

The draft is framed under the Constitution of Eritrea 1997 and must be read with the Civil Code, Penal Code, Civil Procedure Code and Criminal Procedure Code of Eritrea 2015 where those Codes govern. It is also coordinated with the other institutional, financial, commercial, land, labour, administrative and sectoral drafts in this collection. References to international or regional standards guide compatibility and implementation; they do not bypass the Treaty-Making Act or convert an unincorporated instrument into domestic law.

6. Scope and organization

The principal divisions address preliminary provisions; administration and technical standards; building approvals; contractors, consultants and competence; construction contracts, cost and consumer protection; site safety, quality and inspection; completion, occupancy and existing buildings; enforcement, review and accountability; transition and final provisions.

7. Transition, implementation and consultation

The draft preserves lawful accrued rights, completed transactions, pending proceedings and institutional continuity where appropriate, while preventing temporary savings from preserving unconstitutional coercion or indefinite executive discretion. Before enactment or issuance, authentic predecessor instruments and amendments should be verified, cross-references and fiscal capacity confirmed, implementing regulations and digital systems prepared, and affected institutions, professions, communities and the public given a practical opportunity to comment.

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. ____/2026

BUILDING AND CONSTRUCTION ACT 2026

(ACT)

AN ACT TO REGULATE BUILDING AND CONSTRUCTION, ESTABLISH SAFE AND EFFICIENT BUILDING CONTROL, PROVIDE FOR COMPETENT CONSTRUCTION SERVICES, AND PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Articles 8, 21 and 23 of the Constitution of Eritrea support development, adequate livelihood, public safety and protection of property;

WHEREAS Proclamation 147/2005 addressed construction cost, professional supervision and contractor accountability, but modern construction requires comprehensive technical, safety, consumer, environmental and administrative standards rather than general price controls;

WHEREAS Eritrea must expand housing and infrastructure rapidly while respecting land rights, local conditions, earthquake and climate risks, professional integrity, competitive markets and the affordability of ordinary households;

WHEREAS building control must be transparent, timely, digital where possible, locally accessible and protected from corruption and political discrimination;

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 Building and Construction Act 2026.

Article 2 — Objects

1. protect life, health, property and the environment in construction;
2. enable timely and affordable housing and infrastructure;
3. establish proportionate building approval and inspection;
4. ensure competence and accountability of contractors and consultants; and
5. promote competition, transparent cost information, technology and resilient local construction.

Article 3 — Application of Act

1. This Act applies to public and private building, civil works, alteration, demolition and construction services.
2. A defence or security project remains subject to technical and worker-safety requirements, with only narrowly necessary information protected.
3. Minor works may be exempted or use simplified procedure under published regulations.

Article 4 — Definitions

1. “building approval” means statutory authorization of plans and construction under this Act;
2. “building official” means a qualified person authorized to administer building control;
3. “construction work” includes erection, alteration, repair, installation, civil engineering and demolition;
4. “consultant” includes an architect, engineer, quantity surveyor, project manager or other person providing regulated construction advice;
5. “contractor” means a person undertaking construction work for another for reward;
6. “occupancy certificate” means confirmation that completed work may lawfully be occupied or used; and
7. “responsible authority” means the Ministry responsible for public works or a local authority exercising delegated building-control functions.

Article 5 — Relationship with other laws

1. The Civil Code and Commercial Code govern land rights, contracts, warranties, business organizations and commercial remedies except where this Act supplies a specific public-law requirement.
2. Land-use planning, environmental assessment, labour safety, public procurement, utilities, heritage, fire safety and professional regulation remain governed by their respective laws.
3. A building approval does not establish title, cure an unlawful land allocation or replace a sector licence.

Article 6 — Constitutional limitation

1. A restriction under this Act shall be authorized, necessary and proportionate to a legitimate public purpose.
2. No approval or registration may be denied for political opinion, ethnicity, religion, sex, disability, region, family, diaspora residence or another prohibited ground.

CHAPTER II ADMINISTRATION AND TECHNICAL STANDARDS

Article 7 — National building policy

1. The responsible Ministry shall establish national policy, model procedures, technical standards, professional capacity and a national construction information system.

2. It shall not assume a local approval function except where law assigns it or local capacity temporarily requires documented support.

Article 8 — Local building-control authorities

1. Local authorities shall receive and decide building applications, conduct inspections and maintain local records within delegated competence.
2. Delegation shall include trained staff, resources, service standards, audit and a route for technical assistance.

Article 9 — Building Code

1. The authority designated by law shall adopt a National Building Code after technical and public consultation.
2. The Code shall address structural integrity, fire, sanitation, accessibility, energy, water, electrical and mechanical systems, materials, climate resilience, demolition and site safety.
3. The Code shall provide simplified standards for customary, incremental, rural and low-cost construction where safety permits.

Article 10 — Reference standards

1. The Building Code may incorporate identified international, African or regional technical standards by dated reference where suitable to Eritrean conditions.
2. Referenced material shall be reasonably accessible, and no later private revision has legal force until lawfully adopted.

Article 11 — Eritrean conditions

1. Standards shall account for seismic risk, heat, aridity, intense rainfall, salt exposure, coastal conditions, water scarcity, local materials and available skills.
2. Imported standards shall not impose unnecessary cost or technology unsuited to maintenance in Eritrea.

Article 12 — Alternative solutions

1. An applicant may propose an alternative design or method that achieves performance equal to or greater than the applicable standard.
2. A refusal shall give technical reasons and is subject to independent review.

Article 13 — Construction information system

1. The responsible Ministry shall maintain an electronic system for approvals, professionals, contractors, inspections, materials, decisions and public guidance.
2. Accessible physical services shall remain available where digital access is unreliable or impracticable.

CHAPTER III BUILDING APPROVALS

Article 14 — Work requiring approval

1. New buildings, material structural alteration, change to a higher-risk use and demolition require prior approval.
2. Regulations shall identify minor repair, maintenance and low-risk work that requires notice only or no approval.

Article 15 — Building-approval application

1. An application shall include only information reasonably necessary to assess land-use authority, design, structure, fire, sanitation, accessibility, environment and site risk.
2. Requirements, forms, fees, checklists, technical criteria and decision periods shall be published.

Article 16 — Proof concerning land

1. An applicant shall show a lawful right sufficient to undertake the work, but the building authority shall not finally adjudicate disputed title.
2. Approval is without prejudice to another person's land right and may be stayed by a competent court.

Article 17 — Pre-application service

1. Authorities shall offer proportionate guidance for complex, incremental, community and affordable-housing projects.
2. Advice shall be recorded, consistent and available without favouritism or unofficial payment.

Article 18 — Completeness review

1. Within five working days, the authority shall acknowledge the application and identify all apparent missing material in one consolidated notice.
2. A later request requires reasons showing why it could not reasonably have been made earlier.

Article 19 — Decision period

1. A simple application shall be decided within ten working days and an ordinary application within thirty working days.
2. A complex project may receive one reasoned extension not exceeding thirty working days.

Article 20 — Decision criteria

1. Approval shall issue where the proposal satisfies published legal and technical requirements.
2. It shall not be refused to control lawful competition, compel use of a favoured contractor, impose an unofficial design preference or punish lawful conduct unrelated to construction.

Article 21 — Reasons and conditions

1. A decision shall state findings, conditions, approved documents, validity, inspection stages and review rights.
2. A condition must be authorized, relevant, measurable and proportionate to the construction risk.

Article 22 — Validity and commencement

1. Approval remains valid for a reasonable stated period not shorter than two years unless the project risk requires otherwise.
2. Work commenced substantially within the period may continue, subject to lawful updated safety requirements and approved changes.

Article 23 — Amendment

1. A material departure affecting safety, use, environment or neighbours requires approved amendment.
2. A minor field adjustment may be recorded by the responsible professional and reported with completion documents.

Article 24 — Deemed approval for low-risk work

1. Regulations may designate low-risk work for deemed approval where the authority fails to decide on time.
2. Deemed approval does not apply to high-occupancy, structural, hazardous, heritage, major environmental or disputed-land projects.

CHAPTER IV CONTRACTORS, CONSULTANTS AND COMPETENCE

Article 25 — Requirement for registration

1. A person shall not undertake a prescribed class of construction or consultancy service unless registered for that class.
2. Owner-builders, community self-help and minor artisans may operate under simplified rules appropriate to risk.

Article 26 — Registration classes

1. Classes shall reflect type, complexity, financial and technical capacity, responsible personnel, equipment, experience and safety systems.
2. Classification shall not impose unnecessary capital, political sponsorship or experience obtainable only from government work.

Article 27 — Registration authority

1. A Construction Registration Board within the responsible Ministry shall decide registration through technically qualified and conflict-free panels.
2. Its decisions shall be reasoned, published as appropriate and independently appealable.

Article 28 — Application and decision

1. An application shall use published criteria and be decided within twenty working days after completeness.
2. Foreign qualifications and experience shall be fairly assessed, with proportionate requirements for knowledge of Eritrean standards.

Article 29 — Register

1. A searchable register shall state name, class, responsible professionals, status, disciplinary decisions and expiry where applicable.
2. Personal data and legitimate confidential information shall be protected under law.

Article 30 — Continuing competence

1. Registered persons shall maintain competent staff, insurance where prescribed, safety systems, records and continuing professional development.
2. Requirements shall be proportionate and accessible to regional and small operators.

Article 31 — Duties of consultants

1. A consultant shall act competently, independently and honestly, disclose conflicts, use adequate investigation and document professional judgment.
2. A consultant shall not certify unseen or nonconforming work or subordinate safety to cost, instruction or personal interest.

Article 32 — Duties of contractors

1. A contractor shall follow approved documents, lawful instructions, safety requirements and quality-control procedures.
2. The contractor shall notify the client and responsible consultant of a material defect, unsafe design, concealed condition or required variation.

Article 33 — Use of subcontractors

1. A contractor remains responsible for selection, coordination and supervision of subcontractors.
2. A prescribed specialist activity shall be performed by a person registered or certified for that activity.

Article 34 — Suspension and cancellation

1. Registration may be suspended or cancelled for serious incompetence, fraud, corruption, repeated dangerous work, false certification or loss of an essential qualification.
2. Notice, disclosure, hearing, reasons and appeal are required except for a temporary urgent restriction under Article 56.

CHAPTER V CONSTRUCTION CONTRACTS, COST AND CONSUMER PROTECTION

Article 35 — Written contract

1. Construction work above a prescribed value shall use a written contract stating scope, documents, price basis, time, payment, variation, defects, insurance, suspension, termination and dispute procedure.
2. A consumer contract shall use plain language and disclose material exclusions and allowances.

Article 36 — Freedom of price

1. Construction prices, professional fees, profit and overhead are determined by agreement and competition, subject to competition, consumer, procurement and tax law.
2. No general administrative ceiling applies unless a temporary measure is enacted by law during a genuine emergency and satisfies constitutional requirements.

Article 37 — Cost transparency

1. A cost-plus or reimbursable contract shall define allowable cost, overhead, fee, records, audit and approval of expenditure.
2. An estimate shall disclose assumptions, contingencies, taxes, exclusions and the basis of material and labour rates.

Article 38 — Bills of quantities and measurement

1. Where used, a bill of quantities shall follow a published or agreed method of measurement and identify provisional sums.
2. Measurement and valuation shall be independently verifiable and records accessible to the parties.

Article 39 — Variations

1. A material variation shall be documented with scope, reason, price and time effect before work where practicable.
2. Emergency work necessary to protect life or property may proceed with immediate record and prompt notice.

Article 40 — Progress payments

1. A payer shall assess and pay an undisputed certified amount within the contractual period.
2. Withholding shall be limited to a genuine disputed or protective amount and reasons shall be given.

Article 41 — Retention and security

1. Retention, performance security and advance-payment security shall be proportionate and released when their lawful purpose ends.
2. Public and dominant clients shall not use excessive security to shift all commercial risk to small contractors.

Article 42 — Defects and warranties

1. A contractor and responsible consultant remain liable for defects according to contract, the Codes and any mandatory statutory period.
2. Approval, inspection or occupancy certification does not relieve private responsibility for concealed or negligent defect.

Article 43 — Residential consumer protection

1. A seller or builder of a new dwelling shall disclose approvals, plans, materials, utilities, completion status, common property, price and known defects.
2. Advance payments shall be protected through staged payment, escrow, guarantee or another mechanism prescribed for off-plan sales.

Article 44 — Dispute resolution

1. Parties may use negotiation, expert determination, adjudication, mediation, arbitration or court according to law.
2. A consumer shall not be deprived in advance of access to a competent court through an unfair term.

CHAPTER VI

SITE SAFETY, QUALITY AND INSPECTION

Article 45 — Construction safety plan

1. A prescribed project shall maintain a site-specific plan addressing excavation, height, lifting, electricity, traffic, fire, hazardous substances, public protection and emergency response.
2. The principal contractor shall coordinate safety without reducing each employer's labour-law duties.

Article 46 — Workers and national service

1. Construction workers are entitled to labour, safety, wage and social protections under law.
2. No private construction project may use compulsory or underpaid national-service labour outside the statutory service framework.

Article 47 — Protection of the public

1. A site shall control access, falling objects, dust, noise, traffic, unstable excavation and interference with neighbouring property and public ways.
2. An immediate danger shall be secured and reported without delay.

Article 48 — Materials and products

1. Safety-critical products shall conform to applicable standards and be traceable through reliable documentation.
2. Alternative and locally produced materials shall not be excluded where performance is demonstrated.

Article 49 — Quality assurance

1. A prescribed project shall maintain inspection, testing, nonconformity, correction and completion records.
2. Falsification, substitution and concealment of failed work shall be reported to the client and authority.

Article 50 — Mandatory inspection stages

1. The approval shall identify risk-based stages at which work must be available for inspection.
2. Failure of the authority to attend after proper notice shall not indefinitely stop work where a responsible professional records compliance, except for a critical stage designated by law.

Article 51 — Powers of building official

1. A building official may inspect at reasonable times, examine relevant records, photograph work, require testing and issue a lawful notice.
2. Entry into a dwelling or forcible access requires consent or judicial warrant except during an immediate threat to life.

Article 52 — Inspection record

1. The official shall provide a record stating work inspected, observations, required correction, legal basis and review rights.
2. Inspection information shall be entered promptly in the project record.

Article 53 — Nonconforming work

1. For remediable nonconformity, the authority shall specify correction and a reasonable period.
2. Demolition or removal is a last resort where safety or legality cannot reasonably be achieved by a less destructive measure.

CHAPTER VII COMPLETION, OCCUPANCY AND EXISTING BUILDINGS

Article 54 — Completion documents

1. The applicant shall submit as-built information, professional certificates, tests, utility clearances and other documents proportionate to project risk.
2. A minor omission shall not delay occupancy where safety and essential compliance are established and correction is secured.

Article 55 — Occupancy certificate

1. A building requiring approval shall not be occupied in a prescribed high-risk use before an occupancy certificate.
2. The authority shall inspect and decide within ten working days, and may issue a partial or conditional certificate where safe.

Article 56 — Urgent order

1. An authority may stop work or restrict occupancy without prior hearing only on reasonable evidence of imminent serious danger.
2. The order shall be narrow, reasoned and reviewed after an expedited hearing within fourteen days.

Article 57 — Unsafe existing building

1. Where an existing building presents material danger, the authority may require investigation, stabilization, repair, restricted use or demolition in proportion to risk.
2. Occupants and owners shall receive notice, assistance information, hearing and reasonable time except during immediate danger.

Article 58 — Emergency action

1. The authority may take necessary temporary action to protect life where the responsible person cannot or will not act in time.
2. Recoverable cost shall be reasonable, documented and subject to review, and emergency power shall not become uncompensated property acquisition.

Article 59 — Maintenance duties

1. An owner shall maintain structural, fire, sanitation and public-safety features required by law.
2. For shared property, the governing association or responsible persons shall maintain common safety systems under the Civil Code and applicable housing law.

Article 60 — Heritage and informal settlements

1. Enforcement affecting cultural heritage shall coordinate with heritage law and favour compatible repair where safe.
2. Unsafe informal construction shall be addressed through risk reduction, upgrading and regularization where possible, not automatic mass demolition or collective punishment.

CHAPTER VIII ENFORCEMENT, REVIEW AND ACCOUNTABILITY

Article 61 — Compliance notice

1. A notice shall state facts, law, corrective action, time and review rights.
2. A person may propose an equivalent means of correction for technical consideration.

Article 62 — Administrative penalties

1. A monetary penalty may be imposed only for a contravention defined by an Act and within a statutory maximum.
2. Amount shall consider danger, harm, intention, gain, cooperation, history, correction and financial capacity.

Article 63 — Criminal referral

1. Suspected corruption, deliberate dangerous falsification, obstruction causing serious risk or another offence shall be referred to the competent authority.
2. Criminal liability and punishment arise only under the Penal Code or another express Act and require full procedural safeguards.

Article 64 — Appeal

1. An applicant, owner, occupant, contractor, consultant or affected neighbour may appeal a final decision to the competent tribunal or court.
2. The reviewing body may grant interim relief, receive technical evidence, vary or set aside the decision, remit it or order lawful approval.

Article 65 — Independent technical review

1. A disputed technical determination may be referred to an independent expert panel before or during appeal.
2. The panel shall disclose conflicts, give reasons and remain subject to judicial review.

Article 66 — Civil remedies

1. A person harmed by defective work, negligence, misrepresentation, unlawful delay or abuse may seek remedies under the Codes, contract and this Act.
2. Public approval does not create State liability for a private defect absent unlawful or negligent official conduct recognized by law.

Article 67 — Integrity

1. An officer, professional and contractor shall disclose conflicts and shall not offer, solicit or accept an improper advantage.
2. Inspection allocation, decisions and fee payment shall be traceable and auditable.

Article 68 — Annual reporting and audit

1. Authorities shall publish applications, decision times, inspections, unsafe buildings, enforcement, appeals, fees and regional service data.
2. The Auditor General may audit building-control finance, performance, integrity and digital systems.

CHAPTER IX TRANSITION AND FINAL PROVISIONS

Article 69 — Inventory and transition

1. Within twelve months, the responsible Ministry shall inventory existing permits, contractor classes, standards, local procedures and unfinished enforcement matters.
2. A published transition plan shall preserve safety and continuity while eliminating duplicate and unauthorized requirements.

Article 70 — Existing approvals and registrations

1. A lawful existing approval or registration continues for its term and shall be converted without unnecessary repetition or fee.
2. Continuity does not validate unsafe work, corruption, discrimination or a condition lacking legal authority.

Article 71 — Review of price controls

1. Every remaining administrative control of construction price, profit, overhead or professional fee shall cease unless specifically re-enacted under constitutional law.
2. Government may publish market information, reference costs and procurement estimates without converting them into mandatory private prices.

Article 72 — Repeal

1. Proclamation 147/2005 is repealed upon full commencement of this Act.
2. A technically necessary instrument made under it continues temporarily only if listed in a published schedule and consistent with this Act.

Article 73 — Regulations

1. The authority designated by law may make regulations on classifications, approvals, technical records, fees, inspections, occupancy, products, low-risk work and transition.
2. Regulations shall follow public and professional consultation, remain within delegated power and be published before enforcement.

Article 74 — Periodic review

1. The National Assembly shall review this Act five years after commencement and thereafter at intervals not exceeding five years.
2. The review shall assess safety, housing supply, affordability, delay, regional capacity, informal construction, competition, worker protection and climate resilience.

Article 75 — Commencement

1. Chapters I, II and IX commence upon publication in the Gazette.
2. The remaining Chapters commence six months after publication to permit adoption of standards and administrative preparation.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA