

## **DRAFTING NOTE**

### **DEFENCE FORCES ACT**

#### **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**

Earlier defence and reserve instruments were designed for a liberation-to-State transition and became entangled with indefinite service and political control. A democratic Eritrea requires a compact professional force governed by civilian law.

#### **3. What the draft retains**

The draft retains national defence, lawful command, readiness, discipline, reserve capacity and protection of sovereignty and territorial integrity.

#### **4. What the draft updates and modernizes**

It separates the military from party politics, ordinary policing and commercial production; establishes civilian and Assembly control, lawful missions, professional terms, audited procurement, weapons accountability, cyber and maritime capabilities, international humanitarian-law compliance and remedies for unlawful orders.

#### **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; establishment, composition and missions; democratic civilian control and command; personnel and professional service; rights, duties and professional conduct; deployment, operations and assistance to civil authority; international humanitarian law and protection in operations; defence intelligence, cyber operations and technology; discipline and military justice; finance, procurement,

property and environmental responsibility; inspection, complaints, accountability and remedies; international cooperation, 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. \_\_\_\_ OF 2026

DEFENCE FORCES ACT

(ASSEMBLY ACT)

AN ACT TO ESTABLISH AND GOVERN THE ERITREAN DEFENCE FORCES AS A PROFESSIONAL, POLITICALLY NEUTRAL AND CONSTITUTIONALLY ACCOUNTABLE INSTITUTION; TO DEFINE THEIR MISSIONS, COMPONENTS, CIVILIAN CONTROL, COMMAND, PERSONNEL SYSTEM, DEPLOYMENTS, DISCIPLINE AND ADMINISTRATION; TO REGULATE DEFENCE INTELLIGENCE, TECHNOLOGY, FINANCE, PROCUREMENT AND OVERSIGHT; TO GIVE EFFECT TO APPLICABLE INTERNATIONAL HUMANITARIAN LAW; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Articles 12, 25, 32, 39 and 42 of the Constitution of Eritrea require defence and security forces that obey the Constitution and the government established under it, remain integral to and respectful of society, are competent and accountable under law, and are commanded by the President as Commander-in-Chief;

WHEREAS the National Assembly alone enacts laws, approves the national budget and a state of peace, war or national emergency, oversees execution of laws and ratifies international agreements by law;

WHEREAS Eritrea requires a compact, professional and affordable Defence Force separated from political parties, ordinary policing, indefinite national service, secret detention, commercial enterprise and unauthorized domestic coercion;

WHEREAS lawful defence requires civilian direction, an effective chain of command, merit-based service, humane conditions, accurate personnel and weapons records, public financial control, independent audit, judicial remedies and protection for persons who refuse or report manifestly unlawful orders;

WHEREAS modern defence must address maritime, air, cyber, technological and environmental risks while preserving meaningful human control over force and complying with the Penal Code, the four Geneva Conventions of 1949, applicable customary international humanitarian law and validly enacted treaty obligations;

NOW, THEREFORE, the National Assembly of Eritrea, acting under Article 32 of the Constitution, enacts as follows:

CHAPTER I  
PRELIMINARY PROVISIONS

**Article 1 — Short title**

This Act may be cited as the “Defence Forces Act 2026.”

## Article 2 — Purposes

1. to establish professional Defence Forces loyal to the Constitution and the democratic government established under it;
2. to define defence missions, organization, command and lawful deployment;
3. to secure democratic civilian control, National Assembly oversight, financial integrity and judicial accountability;
4. to provide fair, voluntary and professionally sustainable military service;
5. to implement applicable international humanitarian law and protect civilians and persons affected by military operations; and
6. to regulate modern defence capabilities without surrendering human judgment, legality or constitutional rights.

## Article 3 — Interpretation

1. “Chief” means the Chief of the Defence Forces appointed under Article 24;
2. “civil authority” means a constitutional civilian institution lawfully exercising public authority;
3. “Defence Forces” means the Eritrean Defence Forces established under Article 8;
4. “Defence Secretariat” means the civilian administration established under Article 22;
5. “deployment” means assignment of a formed military unit or capability to an operation outside its ordinary base or training function;
6. “international humanitarian law” means applicable treaty and customary rules governing armed conflict;
7. “member” means a person lawfully appointed to the Regular Force or Reserve Force and includes a national-service member only while lawfully attached under the National Service Act;
8. “military objective” has the meaning given by applicable international humanitarian law;
9. “Minister” means the minister assigned responsibility for defence;
10. “operational command” means authority to assign missions and direct military operations within lawful strategic direction;
11. “Regular Force” means the full-time professional component established under Article 12;
12. “Reserve Force” means the voluntary part-time component established under Article 13;
13. “service order” means a written subordinate instrument governing internal military administration or operations; and
14. “weapon system” includes a weapon, munition, platform, targeting system, autonomous function, software or combination intended to apply destructive or disabling force.

## Article 4 — Constitutional supremacy

1. The Defence Forces derive authority only from the Constitution and laws enacted under it.
2. No command, emergency, military necessity, classification or foreign agreement may displace the Constitution.
3. A military order inconsistent with the Constitution or an Assembly Act has no legal force.

4. Every court retains the jurisdiction and remedial power conferred by the Constitution and law.

#### **Article 5 — Governing principles**

1. The Defence Forces shall be lawful, competent, disciplined, politically neutral, affordable, representative and respectful of the people.
2. Force shall be organized no larger than reasonably necessary for the defence of Eritrea and the missions authorized by law.
3. Military capability shall protect national independence, territorial integrity, constitutional order and regional peace and shall not preserve a person or faction in power.
4. Secrecy shall protect a specific legitimate defence interest and shall not conceal illegality, corruption, waste, abuse or historical accountability.

#### **Article 6 — Political neutrality**

1. The Defence Forces shall not belong to, finance, endorse or serve a political party, candidate, faction, family or officeholder.
2. No commander may use personnel, weapons, intelligence, transport, premises, communications or public money to influence an election, legislative vote, political meeting or lawful public debate.
3. A member retains the right to vote and to hold a private political opinion but shall not campaign in uniform, hold party office or use rank to obtain political support.
4. An order to secure partisan advantage shall be refused and reported.

#### **Article 7 — Relationship with other laws**

1. The Penal Code and Criminal Procedure Code govern criminal responsibility and proceedings except for a specific rule lawfully enacted by this Act.
2. The National Service Act governs eligibility, duration, release and civilian obligations of national service and shall not be enlarged by military order.
3. The Civil Service Administration Act governs civilian employees of the Defence Secretariat, and the Labour Code applies as provided by Article 45.
4. The Public Finance Management Act, Public Procurement Act, Auditor General Act, Data Protection and Privacy Act and Treaty-Making Act apply to defence subject only to narrow safeguards expressly stated by law.
5. The Police Service Act governs ordinary law enforcement, including military personnel temporarily exercising police powers.

### **CHAPTER II ESTABLISHMENT, COMPOSITION AND MISSIONS**

#### **Article 8 — Establishment**

1. The Eritrean Defence Forces are established as the armed forces of the State of Eritrea.

2. The Defence Forces are a national institution under civilian constitutional authority and are not a legal continuation of a political organization or liberation movement.
3. The Defence Forces possess only powers conferred by the Constitution and Assembly Acts.
4. No parallel, private, party, regional, ethnic or personal armed force may be maintained.

#### **Article 9 — Principal missions**

1. The Defence Forces shall defend Eritrea against external armed attack and protect its sovereignty, territorial integrity, airspace and maritime domain.
2. They may conduct peace-support, humanitarian, evacuation and international missions authorized by law.
3. They may assist civil authorities during a disaster or exceptional emergency under this Act.
4. They shall develop professional readiness, strategic warning, logistics, medical, engineering, cyber-defence and other capabilities reasonably necessary for these missions.

#### **Article 10 — Prohibited missions**

1. The Defence Forces shall not conduct ordinary policing, political surveillance, taxation, party administration, religious regulation, labour allocation or commercial production.
2. They shall not detain a person in an undisclosed place, operate a civilian prison, punish political opinion or enforce an unpublished direction.
3. They shall not be used to compel labour, suppress peaceful opposition, collect political contributions or prevent lawful travel.
4. A temporary lawful assistance mission does not transfer civilian government to military command.

#### **Article 11 — Composition**

1. The Defence Forces consist of the Regular Force and Reserve Force.
2. Operational services are the Army, Navy and Air Force, supported by joint, medical, logistics, engineering, communications, cyber-defence, education and other lawful capabilities.
3. Civilian staff of the Ministry and Defence Secretariat are not members of the Defence Forces merely because they work in defence administration.
4. A national-service member is not a permanent member of the Regular Force and acquires no indefinite service obligation.

#### **Article 12 — Regular Force**

1. The Regular Force is a voluntary, full-time and salaried professional force.
2. Appointment shall be by written terms identifying service, rank, duration, remuneration, duties, rights, review and separation.
3. No person may be retained after an appointment expires without a new voluntary written appointment.

4. Regular Force strength shall remain within the personnel ceiling approved through the national budget.

### **Article 13 — Reserve Force**

1. The Reserve Force consists of qualified volunteers appointed for part-time readiness and lawful mobilization.
2. A reserve appointment shall state term, training days, call-out grounds, compensation, employment protection and release.
3. Routine reserve training shall not exceed thirty days in a year unless the member freely agrees or a lawful mobilization is in force.
4. Prior national or military service does not by itself create an indefinite reserve obligation.

### **Article 14 — Army**

1. The Army shall prepare for and conduct lawful land defence and joint operations.
2. Its organization shall emphasize mobility, logistics, communications, engineering, medical support, protection of civilians and disciplined control of weapons.
3. Army units may support mine action, disaster response and infrastructure protection only under law and without displacing ordinary civilian work.
4. Internal territorial commands shall not become political or local governments.

### **Article 15 — Navy**

1. The Navy shall defend Eritrea's maritime sovereignty, ports, territorial sea and lawful maritime interests and contribute to safety of navigation and joint operations.
2. Maritime law-enforcement functions may be exercised only under the Maritime Code or another Assembly Act and with the safeguards applicable to that function.
3. The Navy shall cooperate lawfully with maritime administration, ports, fisheries, customs, police and search-and-rescue authorities.
4. Naval operations shall respect innocent passage, rescue obligations, marine environmental protection and applicable law of the sea.

### **Article 16 — Air Force**

1. The Air Force shall defend Eritrean airspace, conduct lawful air operations and provide air mobility, surveillance, rescue and joint support.
2. Military aviation shall coordinate with the civil aviation authority and preserve civilian flight safety.
3. Use of airspace restrictions shall be necessary, proportionate, time-limited and communicated promptly to civilian authorities.
4. Aerial surveillance of persons inside Eritrea requires the same legal authority that would apply to the equivalent civilian surveillance.

### **Article 17 — Joint support, medical and education services**

1. Joint support services shall provide logistics, communications, engineering, transport, medical care, education and other common capabilities.
2. Military medical personnel shall exercise professional clinical independence and treat according to need without adverse distinction.
3. Defence education shall include constitutional law, international humanitarian law, ethics, civilian protection, technology, languages and professional command.
4. Joint capability shall reduce duplication and shall not create an unaccountable command outside the chain established by this Act.

### **Article 18 — Force design and personnel ceiling**

1. The President shall submit a proposed force design and personnel ceiling with the national defence policy and budget.
2. Force design shall be based on a published assessment of threats, missions, affordability, technology, reserve capacity and regional peace, with a classified annex only where necessary.
3. The National Assembly may approve resources and require changes by law or appropriation but shall not exercise operational command.
4. No classified or off-budget unit may exist outside the approved structure.

## **CHAPTER III DEMOCRATIC CIVILIAN CONTROL AND COMMAND**

### **Article 19 — President as Commander-in-Chief**

1. The President is Commander-in-Chief under Article 39 of the Constitution and exercises that authority pursuant to the Constitution and laws.
2. The President sets lawful strategic direction, approves deployments within this Act and appoints high-ranking members under Article 42(11) of the Constitution.
3. The President shall exercise executive authority in consultation with the Cabinet as required by Article 39(2) of the Constitution.
4. Commander-in-Chief authority does not include power to enact criminal offences, appropriate money, declare war without Assembly approval or give an unlawful order.

### **Article 20 — Cabinet consultation**

1. The Cabinet shall consider national defence policy, major deployments, mobilization, force design, defence budget and international defence commitments.
2. A material decision shall be supported by written legal, financial, operational and human-rights advice.
3. Cabinet consultation shall be recorded, subject to lawful protection of operational detail.
4. Urgent action may precede consultation only to repel an actual or imminent armed attack and shall be presented to the Cabinet promptly.



### **Article 21 — Minister responsible for defence**

1. The Minister provides civilian policy direction, presents defence matters to the President and National Assembly and is politically accountable for defence administration.
2. The Minister shall oversee policy, budget, procurement, personnel systems, international cooperation and compliance without directing tactical decisions in an ongoing operation.
3. A ministerial direction shall be written, lawful and preserved, and a material policy direction shall be published with only necessary redaction.
4. The Minister shall not order appointment, promotion, discipline, intelligence collection or contracting for a partisan or personal purpose.

### **Article 22 — Civilian Defence Secretariat**

1. A civilian Defence Secretariat is established within the ministry responsible for defence.
2. It shall advise on policy, strategy, budget, legislation, procurement, personnel administration, international affairs, technology, audit response and civilian oversight.
3. Its staff shall be appointed under the Civil Service Administration Act through merit-based procedures.
4. The Secretariat shall not exercise tactical command or convert civil-service authority into military rank.

### **Article 23 — Secretary for Defence**

1. The Secretary for Defence is the professional head and accounting officer of the civilian defence administration.
2. The Secretary shall ensure lawful budgeting, procurement, records, civilian staffing, internal control and implementation of ministerial policy.
3. The Secretary has access to information reasonably necessary for civilian control and financial accountability, subject to controlled operational handling.
4. The Secretary shall not command military operations and shall coordinate administrative directions through the Chief.

### **Article 24 — Chief of the Defence Forces**

1. The Chief is the senior professional military commander and principal military adviser to the President and Minister.
2. The Chief exercises command, maintains readiness, issues lawful military directives and is accountable for operations, discipline, training, welfare and custody of military assets.
3. The Chief shall transmit civilian strategic direction through the lawful chain of command and shall advise in writing where a proposed direction appears unlawful or operationally unsound.
4. The Chief has no independent political, legislative, financial or treaty-making authority.

### **Article 25 — Appointment, term and removal of Chief**

1. The President shall appoint the Chief under Article 42(11) of the Constitution after considering professional competence, integrity, constitutional commitment, command experience and advice of the Minister and Cabinet.
2. The Chief serves for four years and may be reappointed once for a further term not exceeding four years.
3. The President may remove the Chief and shall record and notify the National Assembly of the reasons, subject to narrow operational redaction.
4. Appointment or removal shall not be used to obtain partisan loyalty, obstruct an investigation or retain command beyond lawful tenure.

### **Article 26 — Service commanders**

1. The President shall appoint the commanders of the Army, Navy and Air Force and other prescribed high-ranking commands under Article 42(11) of the Constitution.
2. A service commander is responsible to the Chief for readiness, discipline, personnel, equipment and operations of that service.
3. Selection shall be based on published professional criteria and verified integrity.
4. No officer has a proprietary, ethnic, regional or political claim to a command.

### **Article 27 — Chain of command**

1. The chain of command shall be clear, documented and accessible to every member affected by it.
2. Operational orders shall pass through the chain except immediate necessity or a protected report of illegality.
3. Command includes responsibility to supervise, prevent abuse, preserve records and correct unlawful conduct.
4. Fragmented, secret or personal command channels are prohibited.

### **Article 28 — Lawful orders**

1. A member shall obey a lawful order issued by a competent superior for a proper military purpose.
2. An order shall be reasonably clear, possible to perform and consistent with the Constitution, this Act, the Penal Code and applicable international humanitarian law.
3. A member shall refuse a manifestly unlawful order, including an order to torture, disappear, intentionally attack civilians, falsify an election, steal public property or punish protected expression.
4. A superior who gives an unlawful order and a member who knowingly executes it are responsible according to law.

### **Article 29 — Delegation and acting command**

1. A material delegation or assignment of command shall be written, limited, recorded and made to a qualified person.
2. Delegation does not remove the delegating authority's duty of supervision.
3. Acting command shall expire when the stated contingency ends and shall not be used to evade appointment law.
4. Financial, disciplinary and intelligence authority shall not be implied merely from operational seniority.

### **Article 30 — Defence Council**

1. A Defence Council shall advise the President and Cabinet on strategy, force design, readiness, budget, major procurement, deployment and defence reform.
2. It consists of the President, Minister, ministers responsible for finance and foreign affairs, the Advocate General or representative, Secretary for Defence, Chief and other persons invited for relevant expertise.
3. The Council is advisory and shall not replace Cabinet, National Assembly, judicial or command authority.
4. Its decisions and dissent shall be recorded and retained.

### **Article 31 — National Assembly oversight**

1. The competent standing committee of the National Assembly may examine defence policy, readiness, legality, expenditure, procurement, personnel welfare, deployments and compliance with this Act.
2. The committee may summon officials and require documents under Article 37 of the Constitution, using secure procedures where necessary.
3. Operational sensitivity may justify a closed session or limited redaction but not refusal to provide the committee with accountable access.
4. The committee shall not direct an operation, promotion, contract award or disciplinary case.

### **Article 32 — National defence policy and review**

1. The President shall submit a national defence policy to the National Assembly within twelve months after commencement and at least every five years thereafter.
2. The policy shall assess threats, missions, force size, reserve model, technology, alliances, affordability, human rights, climate risks and demobilization needs.
3. Public consultation shall inform the unclassified policy, including views of local government, veterans, civil society, universities and affected communities.
4. A classified annex shall be confined to information whose disclosure would create a specific serious defence risk.

### **Article 33 — Annual defence report**

1. The Minister shall submit and publish an annual report covering approved strength, recruitment, releases, deployments, readiness, casualties, discipline, civilian harm, procurement, finances and reform progress.
2. The report shall identify material legal violations and corrective action without prejudicing a fair proceeding.
3. Classified operational detail may be provided separately to the competent Assembly committee and Auditor General.
4. Aggregate facts and fiscal totals shall not be classified merely to avoid criticism.

## **CHAPTER IV PERSONNEL AND PROFESSIONAL SERVICE**

### **Article 34 — Service categories**

1. Members serve in the Regular Force, Reserve Force or a temporary national-service attachment authorized by the National Service Act.
2. Each member shall have a reliable digital and physical service record stating legal category, appointment date, term, rank, unit, pay, leave and release date.
3. A commander shall not alter a service category or release date orally.
4. Uncertainty shall be resolved against involuntary extension of service.

### **Article 35 — Voluntary recruitment**

1. Recruitment to the Regular Force and Reserve Force shall be voluntary, informed, written, merit-based and free from coercion.
2. Recruitment information shall state term, duties, risks, remuneration, benefits, discipline and release rights in a language the applicant understands.
3. A recruiter shall not confiscate identity documents, threaten family members, misrepresent duration or condition public services on enlistment.
4. A recruit may withdraw before taking the oath, subject only to return of issued property.

### **Article 36 — Minimum age**

1. No person below eighteen years may be recruited, enlisted, appointed, attached, mobilized or used by the Defence Forces.
2. Age shall be verified through reliable civil records or a protective assessment where records are unavailable.
3. A child found with a unit shall be removed safely, protected from punishment and referred to child-protection and family-reunification services.
4. A commander is responsible for effective age-verification controls.

### **Article 37 — Equality and representation**

1. Recruitment, assignment, training, promotion, pay, discipline and release shall be free from unlawful discrimination.
2. The Defence Forces shall seek fair representation of Eritrea's regions, communities, languages and women while applying genuine occupational standards.
3. A standard shall be objectively related to duty and reasonably accommodate disability, religion, pregnancy and family responsibility where operationally possible.
4. No ethnic, regional, religious or former-organization quota may create a private claim to a unit or command.

### **Article 38 — Integrity vetting**

1. Appointment or retention in sensitive or command positions requires fair integrity and human-rights vetting.
2. Vetting shall use individualized credible evidence and shall not presume guilt from former rank, organization, family or community alone.
3. Credible involvement in torture, disappearance, extrajudicial killing, war crime, serious corruption or political repression may disqualify after notice and opportunity to respond.
4. A person may seek independent administrative review and judicial review.

### **Article 39 — Oath or affirmation**

1. Before exercising military authority, a member shall swear or affirm allegiance to Eritrea, obedience to the Constitution and lawful democratic government, faithful service to the people and respect for lawful orders and human rights.
2. The oath shall not be made to the President personally, a party, former movement, commander or ideology.
3. The oath shall be signed, witnessed and preserved in the service record.
4. A person who refuses the constitutional oath shall not exercise military authority.

### **Article 40 — Appointment and commission**

1. Every appointment shall be evidenced by a written instrument issued by lawful authority.
2. An officer's commission confers rank and command subject to this Act and does not confer immunity or political status.
3. Non-commissioned appointment shall recognize professional competence and leadership responsibility.
4. A defective administrative document shall not be used to impose involuntary service or deny earned rights.

### **Article 41 — Rank, promotion and assignment**

1. Ranks, competencies and promotion requirements shall be prescribed transparently and applied consistently.

2. Promotion shall consider merit, training, performance, integrity, command potential and service need, not political or personal loyalty.
3. A promotion or assignment decision shall be recorded and reviewable for illegality, discrimination, corruption or material procedural unfairness.
4. No person shall retain a fictitious rank or command not supported by a lawful appointment and actual responsibility.

#### **Article 42 — Relationship with national service**

1. A national-service member may be attached to the Defence Forces only for military training or a lawful military assignment under the National Service Act.
2. The total national-service obligation shall not exceed eighteen months and shall not be extended by operational order, reserve designation, administrative delay or unpaid attachment.
3. The Defence Forces shall release the member automatically on the statutory date unless the person voluntarily accepts a separate written appointment to the Regular or Reserve Force.
4. National-service personnel shall not be supplied to a political organization, private undertaking or ordinary government office as involuntary labour.

#### **Article 43 — Conversion to professional appointment**

1. A person completing national service may apply voluntarily for professional military appointment through an open and merit-based process.
2. Prior national service may count toward experience but shall not compel acceptance or guarantee rank.
3. A professional appointment begins a new employment relationship with proper salary, benefits, term and release rights.
4. Continued service without a written appointment after the statutory limit is unlawful detention and forced labour.

#### **Article 44 — Civilian employees**

1. Civilian defence employees shall be appointed under the Civil Service Administration Act or, where employed by a lawful commercial contractor, under the Labour Code.
2. A civilian employee does not acquire military status, combatant function or command merely from workplace, clothing or security clearance.
3. Military discipline applies to a civilian only to the limited extent expressly authorized by an Assembly Act and necessary for safety or operations.
4. A civilian shall not be tried or punished through military discipline.

#### **Article 45 — Relationship with labour and civil-service law**

1. The Civil Service Administration Act is the special law for civilian public servants in defence administration.
2. Uniformed members are governed by this Act for appointment, command, discipline and separation, while the Labour Code's protections against forced labour, child labour,

discrimination, retaliation, workplace violence and unsafe conditions apply unless this Act provides equal or greater protection.

3. Industrial action and collective bargaining may be restricted for uniformed members only as necessary for continuous defence readiness, with alternative representation and dispute resolution under Article 51.
4. No person may be classified falsely as military or national-service personnel to avoid lawful wages, benefits or remedies.

#### **Article 46 — Remuneration and benefits**

1. A member shall receive salary and allowances appropriate to rank, skill, risk, deployment and responsibility under an approved and published scale.
2. Pay shall be made regularly through a traceable account and shall not consist merely of pocket money, rations or an unrecorded promise.
3. A temporary fiscal inability to pay creates an acknowledged enforceable debt and does not authorize involuntary retention.
4. Deductions require law, court order or informed written authorization and shall be itemized.

#### **Article 47 — Working time, rest and leave**

1. Military duty may require irregular hours, standby and deployment, but schedules shall protect health, readiness and family life so far as operations permit.
2. Members shall receive annual, medical, maternity, paternity, adoption, family, bereavement and education leave under prescribed standards no less protective than reasonably compatible public-service standards.
3. After sustained operations, commanders shall provide compensatory rest and recovery.
4. Operational necessity shall not become a permanent explanation for denial of rest or leave.

#### **Article 48 — Health and occupational safety**

1. The Defence Forces shall prevent occupational injury, provide safe equipment, training, sanitation, nutrition, medical care and mental-health support.
2. A member may report danger and refuse a task presenting an imminent serious risk where the task is not essential to repel an immediate threat and safer measures are reasonably available.
3. Medical information is confidential and fitness decisions shall disclose only necessary functional information.
4. Injury, illness, trauma and toxic exposure shall be recorded for treatment, compensation and prevention.

#### **Article 49 — Accommodation and family welfare**

1. Military accommodation shall be safe, sanitary, private to a reasonable degree and suitable for sex, disability, age and family status.

2. Families shall receive accurate deployment information, emergency contact, death or injury notification and access to lawful benefits.
3. A commander shall not punish, threaten, evict or deny services to a family because of a member's complaint, absence or alleged misconduct.
4. Family-support programs shall not become political surveillance or compelled association.

#### **Article 50 — Education and professional development**

1. Members shall receive continuing military, technical, legal, ethical and leadership education appropriate to duty.
2. Education shall develop skills transferable to civilian life and recognize prior learning.
3. Selection for advanced training shall be merit-based and shall include fair return-of-service terms disclosed beforehand.
4. Foreign training shall not require allegiance inconsistent with the Constitution or participation in unlawful conduct.

#### **Article 51 — Representative bodies and grievances**

1. Members may form or join a nonpartisan professional association to represent welfare, pay, safety, equality and service-condition concerns without exercising operational command.
2. Units shall maintain elected personnel councils and confidential grievance channels.
3. A grievance shall receive tracking, impartial review, reasons and protection from retaliation.
4. Where strike action is lawfully restricted, timely mediation, independent adjudication and judicial review shall provide an effective alternative.

#### **Article 52 — Discharge, retirement and transition**

1. A member shall be released at the end of the appointment unless a new voluntary appointment is accepted.
2. Earlier discharge may occur for request, medical grounds, redundancy, unsuitability, lawful discipline or another prescribed fair reason.
3. A member shall receive notice, a certificate of service, final pay, records, benefits and access to appeal.
4. The Defence Forces shall coordinate civilian qualifications, employment, health care, pension and veterans' support before release.

### **CHAPTER V RIGHTS, DUTIES AND PROFESSIONAL CONDUCT**

#### **Article 53 — Rights of members**

1. A member retains every constitutional right except a limitation lawfully justified by the special requirements of military service.



2. A member has rights to dignity, equality, bodily integrity, lawful process, remuneration, health, religion, family life, petition, legal advice and access to court.
3. Rank does not authorize humiliation, violence, sexual exploitation, collective punishment or arbitrary deprivation.
4. A waiver of a constitutional or minimum statutory right obtained through command pressure is invalid.

#### **Article 54 — Limitations upon rights**

1. A limitation shall satisfy Article 26 of the Constitution and be necessary, proportionate, ascertainable, generally applicable and consistent with democracy and justice.
2. A service order may implement but shall not create a limitation that requires an Assembly Act.
3. The authority imposing a limitation bears the burden of identifying the lawful purpose and why a less restrictive measure is insufficient.
4. Operational inconvenience, tradition, rank or embarrassment is not by itself sufficient justification.

#### **Article 55 — Dignity, equality and harassment**

1. Torture, cruel, inhuman or degrading treatment, hazing, sexual harassment, bullying, stalking and discriminatory abuse are prohibited.
2. Consent is not inferred from rank, dependency, accommodation or fear of career harm.
3. A complaint shall be separated from the implicated chain of command where necessary for safety and impartiality.
4. Protection and discipline shall not depend on the sex, rank, status or prior relationship of the persons involved.

#### **Article 56 — Conscience and religion**

1. A member has freedom of thought, conscience and religion, including freedom not to profess a religion.
2. Reasonable accommodation of worship, dress, diet and observance shall be provided unless a specific operational necessity prevents it.
3. Religious belief does not excuse an unlawful act or authorize coercion of another member.
4. A chaplain or spiritual adviser shall serve members impartially and preserve lawful confidence.

#### **Article 57 — Expression, information and disclosure**

1. A member may express a private opinion, communicate with family, obtain public information and participate in professional and academic discussion subject to lawful operational security.
2. A restriction on disclosure shall identify classified information or a specific serious risk and shall not prohibit reporting crime, abuse, corruption or danger through a protected channel.

3. Prior restraint and monitoring shall be no broader than necessary.
4. A lawful criticism of defence policy made as a citizen and without misuse of rank or protected information is not disloyalty.

#### **Article 58 — Privacy and searches**

1. A member retains reasonable privacy in body, accommodation, communication, medical information and personal property.
2. Routine military inspection may address readiness, weapons, safety and government property under published rules and shall not become a pretext for punishment or political inquiry.
3. A search for evidence of crime requires authority under the Constitution and Criminal Procedure Code.
4. Digital monitoring shall be disclosed, purpose-limited, proportionate and auditable.

#### **Article 59 — Duty toward the public**

1. A member shall treat every person respectfully and shall protect life and property within lawful mission.
2. A member shall not demand unpaid goods, accommodation, transport, labour, political support or personal service.
3. Military presence in a community shall minimize disruption and provide accessible contact for complaints and compensation claims.
4. A person's criticism, ethnicity, language, religion, migration status or perceived political opinion shall not affect protection.

#### **Article 60 — Duty to refuse and report unlawful conduct**

1. A member shall refuse a manifestly unlawful order and shall take reasonable steps to prevent or stop torture, unlawful killing, disappearance, sexual violence, pillage or another grave abuse.
2. The member shall report serious illegality promptly to a superior not implicated, military legal adviser, Inspector-General, Defence Ombud, Advocate General, police or court.
3. A reasonable good-faith refusal or report shall not constitute disobedience, desertion or disclosure misconduct.
4. A commander shall provide repeated training and practical confidential reporting channels.

#### **Article 61 — Whistleblower and witness protection**

1. No person shall be dismissed, transferred, threatened, detained, denied benefit or otherwise disadvantaged for a good-faith protected report or cooperation with oversight.
2. Identity shall be protected so far as compatible with fair process and safety.
3. The Ombud or a court may order temporary transfer, protection, restoration, compensation or another necessary measure.
4. Knowingly fabricated evidence may be addressed under general law without chilling an honest report.

### **Article 62 — Conflicts, gifts and secondary activity**

1. A member shall disclose and avoid a financial, family, political or personal interest conflicting with duty.
2. A gift, commission, favor, travel benefit or foreign payment connected with defence office may be accepted only under transparent prescribed rules.
3. Secondary employment requires written approval and shall not impair readiness, misuse information or create procurement influence.
4. A serving member shall not own or manage a defence supplier or private armed or security enterprise.

### **Article 63 — Code of military ethics**

1. The Chief shall issue a code of military ethics after consultation with members, civilian authorities, legal experts and the Defence Ombud.
2. The code shall address constitutional loyalty, lawful orders, civilian protection, integrity, leadership, conflicts, harassment, reporting, technology and environmental responsibility.
3. The code is subordinate to this Act and shall not create criminal offences or secret coercive power.
4. Every member shall receive, study and acknowledge the code.

## **CHAPTER VI**

### **DEPLOYMENT, OPERATIONS AND ASSISTANCE TO CIVIL AUTHORITY**

### **Article 64 — Territorial defence**

1. The President may deploy the Defence Forces to defend Eritrea against an actual or imminent external armed attack.
2. The deployment shall have a written objective, geographic scope, command, rules of engagement, reporting requirement and review date.
3. The President shall inform the National Assembly promptly and seek every approval required by Articles 27 and 32 of the Constitution.
4. Self-defence authority ends when the threat ends or lawful political authority directs termination.

### **Article 65 — State of war and armed hostilities**

1. The National Assembly approves a state of peace or war under Article 32(6) of the Constitution.
2. No executive declaration, military communiqué or foreign request substitutes for that approval.
3. Urgent defensive action against an actual or imminent armed attack may begin before approval but shall be reported immediately and submitted to the Assembly within seven days.

4. Continuation beyond the urgent defensive necessity requires Assembly authority and appropriation.

#### **Article 66 — External deployment**

1. A formed-unit deployment outside Eritrea requires a lawful purpose, Cabinet consideration, written presidential authorization and National Assembly approval before departure, except an urgent rescue or evacuation under Article 68.
2. The authorization shall state mission, location, maximum strength, duration, command, legal basis, cost, force rules and reporting.
3. Renewal or material expansion requires renewed approval.
4. A secret foreign combat deployment is prohibited.

#### **Article 67 — Peace-support and humanitarian missions**

1. The Defence Forces may participate in a United Nations, African Union or other lawful peace-support or humanitarian mission under a ratified agreement and Assembly-approved deployment.
2. Personnel shall receive mission-specific legal, language, cultural, protection and conduct training.
3. National caveats shall preserve the Constitution, civilian protection and refusal of unlawful orders.
4. Alleged misconduct abroad remains subject to Eritrean jurisdiction and host or international jurisdiction lawfully accepted.

#### **Article 68 — Urgent evacuation and rescue**

1. The President may authorize an urgent, limited operation to rescue Eritrean citizens or other persons in imminent danger or evacuate them from abroad where delay would create serious risk.
2. The operation shall use no more force, personnel, territory or time than necessary.
3. The National Assembly shall be informed within forty-eight hours and may require modification or termination.
4. A rescue authority shall not be used to begin or conceal a wider armed intervention.

#### **Article 69 — Disaster and humanitarian assistance inside Eritrea**

1. A competent civil authority may request military logistics, engineering, medical, transport, rescue or communications assistance when civilian capacity is insufficient.
2. Civil authorities retain policy control and military units remain under military command for safety and discipline.
3. Assistance shall be impartial, time-limited, recorded and ended when civilian capacity is restored.
4. Disaster assistance shall not authorize forced relocation, property seizure, censorship or ordinary policing beyond law.

## **Article 70 — Assistance to the Police Service**

1. Military assistance to police is exceptional and may be authorized only under the Police Service Act, a valid state of emergency or another Assembly Act.
2. The request shall identify a serious threat, inadequate civilian capacity, tasks, duration, geographic scope and safeguards.
3. Police retain control of law-enforcement objectives, arrest, evidence and custody, and military personnel exercising police power are subject to police law and independent police oversight.
4. Assistance shall not be used for routine patrol, political assembly, labour dispute or electoral advantage.

## **Article 71 — Elections and democratic institutions**

1. The Defence Forces shall remain outside election administration and political campaigning.
2. They may protect a specific strategic site or assist after a documented civilian request only where police capacity is insufficient and the Election Commission is informed.
3. Weapons, transport, communications, intelligence and premises shall not be supplied to a candidate or used to intimidate voters or Assembly members.
4. An election-related deployment shall be published, narrowly defined and independently monitored.

## **Article 72 — Rules of engagement**

1. Every operation involving possible force shall have written rules of engagement consistent with the Constitution, Penal Code, this Act and applicable international law.
2. Rules shall define positive identification, necessity, proportionality, precautions, prohibited targets, detention, medical aid, reporting and command authorization.
3. Members shall be trained and may request clarification without punishment where circumstances permit.
4. Rules of engagement do not excuse unlawful force or create authority beyond law.

## **Article 73 — Use of force in domestic assistance**

1. Inside Eritrea and outside armed conflict, force may be used only under a specific law and only where necessary and proportionate to protect life or perform the authorized task.
2. Lethal force is permitted only where strictly necessary to protect a person from an imminent threat of death or serious injury.
3. Force shall not be used solely to protect property, punish disobedience, disperse peaceful assembly or prevent escape from a nonviolent offence.
4. Every death, serious injury or firearm discharge shall be reported immediately for independent investigation.

#### **Article 74 — Arrest, detention and transfer**

1. A member may arrest or detain a person only under the Criminal Procedure Code, Police Service Act, law of armed conflict or another express Assembly Act.
2. A person detained inside Eritrea outside armed conflict shall be informed of reasons and rights and brought before a court within forty-eight hours as required by Article 17 of the Constitution.
3. Secret, incommunicado and unofficial detention are prohibited.
4. Transfer is prohibited where substantial grounds show a real risk of torture, disappearance, execution without due process or other grave abuse.

#### **Article 75 — Search, seizure and access to premises**

1. A military search inside Eritrea outside armed conflict requires constitutional and statutory authority applicable to police or criminal investigation.
2. Entry to save life or respond to an immediate military attack shall be limited to the necessity and recorded.
3. Property seized shall be inventoried, preserved, receipted and returned or submitted to lawful judicial process.
4. A base designation does not extinguish lawful private property or court jurisdiction.

#### **Article 76 — Use of civilian property and services**

1. The Defence Forces shall acquire land, goods, transport and services through budget, procurement, lease or voluntary agreement.
2. Emergency requisition requires specific statutory authority, written record, necessity, proportionality and prompt fair compensation under Article 23 of the Constitution.
3. A commander shall not demand free labour, crops, livestock, fuel, housing or transport from a community.
4. A person may challenge taking, damage, valuation or nonpayment before a court.

#### **Article 77 — Operational reporting and termination**

1. A commander shall report mission progress, casualties, detention, civilian harm, weapons expenditure, legal incidents and material changes through the chain of command.
2. The President shall report a major deployment to the National Assembly at intervals stated in the authorization and at least every sixty days.
3. An operation shall end when its legal authority, appropriation, time limit or necessity ends.
4. Withdrawal shall include accounting for personnel, detainees, weapons, property, claims and records.

## CHAPTER VII

### INTERNATIONAL HUMANITARIAN LAW AND PROTECTION IN OPERATIONS

#### **Article 78 — Application of international humanitarian law**

1. The Defence Forces and every member shall comply with applicable international humanitarian law in international and non-international armed conflict.
2. The four Geneva Conventions of 1949, validly enacted treaty obligations, customary international humanitarian law and the Penal Code shall guide operations according to their lawful domestic effect.
3. Where doubt exists whether a person is protected, humane treatment and precaution shall govern until status is determined lawfully.
4. Military necessity permits only measures lawful under international humanitarian law.

#### **Article 79 — Training and military legal advisers**

1. International humanitarian law, human rights, rules of engagement and protection of civilians shall be included in recruitment, promotion, command and pre-deployment training.
2. Qualified military legal advisers shall advise commanders during planning, targeting, detention, weapon review and investigation.
3. A legal adviser shall have access to material facts and may record dissent without retaliation.
4. Lack of legal advice does not excuse a manifest violation.

#### **Article 80 — Distinction and military objectives**

1. Parties, members and objects shall be distinguished between civilians and combatants and between civilian objects and military objectives.
2. Attacks may be directed only against lawful military objectives.
3. In case of doubt whether a person is directly participating in hostilities or an object ordinarily dedicated to civilian use is a military objective, protection shall be presumed unless reliable information establishes otherwise.
4. Civilian presence shall never be used to shield a military objective.

#### **Article 81 — Proportionality and precautions**

1. An attack expected to cause incidental civilian harm excessive in relation to the concrete and direct military advantage anticipated is prohibited.
2. Commanders shall verify targets, choose feasible means and timing to reduce harm, warn civilians where possible and cancel or suspend an attack when legality changes.
3. Precautions shall account for children, hospitals, displacement, dams, hazardous facilities, cultural property and environmental consequences.
4. Targeting records shall preserve information, analysis, decisions and post-strike assessment.

## **Article 82 — Protection of civilians and civilian objects**

1. Murder, torture, disappearance, hostage-taking, collective punishment, pillage, rape, sexual violence, starvation of civilians and indiscriminate attack are prohibited.
2. Homes, schools, markets, places of worship, farms, water systems and other civilian objects shall not be attacked unless and for such time as they become lawful military objectives.
3. Displacement may occur only under law for civilian security or imperative military reasons and shall include shelter, health, food, family unity and return.
4. No commander may treat an entire community as hostile because of ethnicity, location or perceived support.

## **Article 83 — Wounded, sick and shipwrecked persons**

1. Wounded, sick and shipwrecked persons shall be respected, protected, collected and treated according to medical need without adverse distinction.
2. A person hors de combat shall not be attacked.
3. The dead shall be identified where possible, treated respectfully and accounted for, and families shall receive information.
4. Search, rescue and medical evacuation shall be facilitated so far as security permits.

## **Article 84 — Medical and humanitarian protection**

1. Medical personnel, units, transports, supplies and recognized protective emblems shall be respected and protected according to law.
2. Medical ethics shall not be overridden by intelligence, interrogation or punishment objectives.
3. Impartial humanitarian relief shall be permitted and facilitated subject only to necessary and temporary control.
4. Misuse of a protective emblem or humanitarian status is prohibited and shall be investigated.

## **Article 85 — Persons deprived of liberty**

1. Every detainee, prisoner of war or internee shall be treated humanely and protected from torture, violence, intimidation, sexual abuse, public curiosity and disappearance.
2. Identity, capture, transfer, health, death and release shall be registered reliably and made available to competent protecting and judicial authorities.
3. Interrogation shall not use coercion and detention conditions shall meet health, food, shelter, religion, communication and family-contact requirements.
4. Independent humanitarian access shall be permitted as required by applicable law.

## **Article 86 — Children and armed conflict**

1. A person below eighteen years shall not be recruited or used in hostilities.



2. Children affected by conflict shall receive special protection, family tracing, education, health care and rehabilitation.
3. A captured or separated child shall be treated primarily as a child and shall not be punished solely for unlawful recruitment by another actor.
4. Schools shall not be used for military purposes where a feasible alternative exists, and any exceptional use shall be minimized and ended promptly.

#### **Article 87 — Cultural property and environment**

1. Cultural, religious, historic and natural heritage shall be identified, marked where appropriate and protected in planning and operations.
2. Military use or attack of specially protected cultural property is prohibited except under the strict conditions of applicable law.
3. Methods expected to cause widespread, long-term and severe environmental damage shall not be used.
4. Commanders shall prevent unnecessary burning, toxic release, water contamination, wildlife destruction and damage to civilian livelihoods.

#### **Article 88 — Weapons and prohibited means**

1. A weapon, munition or method prohibited by valid domestic law or applicable international law shall not be developed, acquired, transferred, stockpiled or used.
2. Poison, biological weapons, chemical weapons, weapons causing superfluous injury and inherently indiscriminate means are prohibited.
3. Anti-personnel mines, cluster munitions, incendiary weapons and explosive weapons in populated areas require the strictest applicable legal controls, civilian-harm assessment and national policy review.
4. A foreign supplier's approval does not establish legality in Eritrea.

#### **Article 89 — Legal review of new weapons and methods**

1. Before study, acquisition or fielding, every new weapon, means, method, targeting function or substantial software update shall receive documented legal, technical, cybersecurity, safety, human-rights and environmental review.
2. The review shall assess intended and reasonably foreseeable use, failure modes, bias, reliability, human control, proliferation and compatibility with international humanitarian law.
3. Deployment shall be suspended where evidence creates serious unresolved doubt about lawful use.
4. The competent Assembly committee and Auditor General shall receive accountable access to the review process.

## **Article 90 — Command responsibility and investigation**

1. A commander shall take reasonable measures to prevent, stop, report and submit for investigation crimes and grave breaches known or which should reasonably have been known.
2. Transfer, retirement, resignation or an order from above does not erase responsibility.
3. Alleged grave violations shall be investigated promptly, independently and effectively and referred to the Advocate General or competent prosecutor.
4. Victims and families shall receive protection, information and access to remedies consistent with fair trial.

## **CHAPTER VIII**

### **DEFENCE INTELLIGENCE, CYBER OPERATIONS AND TECHNOLOGY**

## **Article 91 — Defence intelligence mandate**

1. Defence intelligence may collect and analyze information reasonably necessary to identify external military threats, protect forces and support authorized operations.
2. Its mandate shall be defined by law, policy, approved priorities and documented tasking.
3. It has no independent power of arrest, civilian detention, punishment, censorship or political regulation.
4. National intelligence functions outside the military mandate are governed by the National Intelligence Services Act.

## **Article 92 — Prohibition of political and domestic surveillance**

1. Defence intelligence shall not monitor a person or organization because of lawful political opinion, journalism, religion, union activity, protest, diaspora activity or criticism of government.
2. Collection inside Eritrea requires a specific defence threat and every judicial authorization required by the Constitution and law.
3. A military unit shall not maintain a political blacklist or secret loyalty file.
4. Information obtained unlawfully shall not be operationalized and shall be preserved for accountability where necessary.

## **Article 93 — Authorization and collection standards**

1. Intelligence collection shall be necessary, proportionate, targeted and conducted through the least intrusive reasonably effective means.
2. Human sources, interception, location tracking, device access and bulk data require the authority and safeguards prescribed by law.
3. A collection authorization shall state purpose, target category, method, duration, minimization, retention and review.
4. Fabrication, coercive recruitment, torture and intelligence obtained through grave abuse are prohibited.

**Article 94 — Defence intelligence oversight**

1. The Minister, Inspector-General, competent Assembly committee, Auditor General and courts exercise their respective oversight over defence intelligence.
2. Oversight bodies shall receive secure access to authorizations, expenditure, policies, complaints, incidents and compliance records.
3. Source identity may receive controlled protection but shall not defeat investigation of crime or grave abuse.
4. An annual public report shall provide aggregate activity, legal compliance and corrective action.

**Article 95 — Intelligence sharing**

1. Intelligence may be shared only for a lawful purpose with a body authorized to receive it.
2. Before foreign sharing, the Defence Forces shall assess reliability, use restrictions, privacy, human-rights risk and onward transfer.
3. Information shall not be shared where there is a real risk it will facilitate torture, disappearance, political persecution or unlawful attack.
4. Material sharing shall be logged and auditable.

**Article 96 — Cyber-defence mission**

1. The Defence Forces may protect military networks, systems, weapons and operations against cyber threats and assist civilian cyber authorities on request.
2. Defensive monitoring of government or private systems requires consent or statutory authority and shall be limited to security purposes.
3. Cyber-defence shall use secure design, segmentation, testing, incident response, supply-chain review and auditable access.
4. Assistance shall not create military control over civilian communications or the internet.

**Article 97 — Cyber operations**

1. An external cyber operation reasonably expected to cause injury, physical damage, loss of essential service or another effect equivalent to force requires the same legal and political authorization as a comparable physical operation.
2. International humanitarian law applies to cyber operations during armed conflict.
3. Operations shall distinguish military objectives, protect civilian infrastructure, minimize propagation and include termination and recovery measures.
4. A secret cyber capability shall remain budgeted, legally reviewed and subject to oversight.

**Article 98 — Artificial intelligence and autonomous functions**

1. Artificial intelligence may assist logistics, maintenance, translation, planning, simulation, warning and analysis subject to accountable human judgment.
2. No system may make an unreviewable decision to select and engage a human target, initiate lethal force, detain a person or impose discipline.

3. Meaningful human control shall include sufficient information, time, competence, authority to intervene and responsibility for the result.
4. Systems shall be tested continuously for reliability, bias, deception, cyber vulnerability, escalation risk and predictable failure.

#### **Article 99 — Electronic surveillance and communications**

1. Military electronic surveillance shall be confined to authorized defence purposes and comply with privacy, interception and data-protection law.
2. Incidental information concerning civilians shall be minimized, segregated, retained briefly and not used for unrelated purposes.
3. Military spectrum use shall coordinate with the communications and civil aviation authorities.
4. Deliberate nationwide communications shutdown or censorship requires specific constitutional statutory authority and shall never be ordered by service directive alone.

#### **Article 100 — Defence data and records**

1. Defence data shall be accurate, classified according to actual risk, secured, retained for lawful periods and accessible to authorized oversight.
2. Personnel, casualty, detention, weapons, finance and operational-decision records shall not be destroyed to prevent accountability.
3. A person may seek correction and lawful access to personal service records subject to a narrow security exception.
4. Automated systems shall preserve identity, provenance, version history and audit logs.

#### **Article 101 — Research, innovation and acquisition**

1. Defence research shall pursue lawful, affordable and locally sustainable capabilities and may cooperate with universities and private enterprise through transparent agreements.
2. Intellectual property, cybersecurity, export control, safety, ethics and civilian applications shall be addressed before funding.
3. No research participant may be compelled through national service to waive authorship, health or compensation rights.
4. Classified research remains subject to procurement, audit and legal review.

### CHAPTER IX DISCIPLINE AND MILITARY JUSTICE

#### **Article 102 — Purpose and principles of discipline**

1. Discipline exists to secure lawful command, safety, readiness, integrity and respect for rights.
2. Discipline shall be prompt, fair, individualized, proportionate and free from collective punishment or retaliation.

3. No person shall be punished for conduct not prohibited when committed or for refusing a manifestly unlawful order.
4. Criminal guilt and imprisonment may be imposed only by a court of law.

#### **Article 103 — Minor service misconduct**

1. A service code may define minor misconduct concerning punctuality, uniform, care of equipment, respectful conduct, reporting, safety and lawful routine orders.
2. The code shall be published to members and shall not create a criminal offence.
3. Serious violence, corruption, sexual abuse, torture, theft, disappearance, unlawful killing or war crime shall not be disposed of as minor misconduct.
4. A commander shall refer suspected crime to an independent investigator and competent prosecutor.

#### **Article 104 — Disciplinary procedure**

1. A member accused of misconduct shall receive timely written notice, material evidence, reasonable preparation, opportunity to respond, assistance and an impartial decision with reasons.
2. The complainant and witnesses shall receive protection and fair treatment.
3. A person who investigated or is materially involved shall not decide the case.
4. Proceedings and sanctions shall be recorded in the service file and available for appeal.

#### **Article 105 — Administrative sanctions**

1. Lawful sanctions may include counseling, warning, reprimand, corrective training, temporary loss of a nonessential privilege, reassignment, reduction in rank after a formal board, suspension or discharge.
2. A financial sanction shall not exceed seven days of basic pay for one case and shall be imposed only after a formal hearing.
3. Corporal punishment, torture, humiliation, food deprivation, dangerous exercise, forced labour, secret confinement and indefinite restriction are prohibited.
4. A sanction shall not erase earned salary, pension, medical care or access to court.

#### **Article 106 — Appeal from discipline**

1. A member may appeal a material sanction to an independent Defence Service Appeals Panel.
2. The Panel shall include a legally qualified chair, a retired professional member and an independent person experienced in public administration or human rights.
3. It may affirm, vary, set aside or remit the decision and shall give reasons.
4. Its decision remains subject to judicial review, and a discharge affecting livelihood may be appealed to a competent court on fact and law.

### **Article 107 — Arrest and temporary military custody**

1. A military police officer or commander may arrest a member on reasonable grounds of a service or criminal offence and immediate necessity to secure attendance, safety or evidence.
2. The arrested person shall be informed of grounds and rights, allowed counsel and family notification and held in a registered lawful place.
3. The person shall be released or brought before a civilian court within forty-eight hours under Article 17 of the Constitution.
4. Command authorization cannot extend custody beyond the constitutional period.

### **Article 108 — Military police and investigation**

1. Military police may maintain order within the Defence Forces, protect military property and investigate service offences under published authority.
2. They have no general civilian police jurisdiction and shall transfer civilian criminal matters to the Police Service.
3. An investigation of a senior commander, death, torture, sexual offence, corruption or grave operational abuse shall be independent of the implicated chain of command.
4. Search, seizure, interview and evidence shall comply with the Constitution and Criminal Procedure Code.

### **Article 109 — Military offences and application of Penal Code**

1. The general provisions, defences, participation rules and sentencing principles of the Penal Code apply to an offence under this Act.
2. An offence under this Act applies only to a member lawfully subject to military duty at the material time.
3. No offence is committed by refusal of an unlawful order, inability not caused culpably, lawful protected reporting, necessity or another defence recognized by law.
4. No military offence under this Act carries the death penalty.

### **Article 110 — Mutiny**

1. A member who, acting with another member, intentionally uses or threatens force to usurp lawful command, overthrow constitutional authority or prevent the Defence Forces from obeying the constitutional government commits mutiny, a Class 4 Serious Offence under the Penal Code.
2. Peaceful complaint, petition, professional representation or refusal of a manifestly unlawful order is not mutiny.
3. Sentence shall be determined under the Penal Code, with due regard to role, violence, harm and operational risk.
4. Incitement and offences against the State remain governed by the Penal Code without double punishment for the same conduct.

### **Article 111 — Desertion**

1. A professional member who absents himself or herself without authority with intent permanently to avoid a subsisting voluntary service obligation commits desertion, a Class 9 Serious Offence under the Penal Code.
2. Desertion committed during armed conflict and creating a serious operational risk is aggravated desertion, a Class 7 Serious Offence under the Penal Code.
3. Expiration of appointment, completion of national service, unlawful retention, reasonable escape from persecution or refusal of a manifestly unlawful order is not desertion.
4. Ordinary unauthorized absence without permanent intent shall be addressed through proportionate discipline unless another crime is proved.

### **Article 112 — Serious disobedience and abandonment**

1. A member who intentionally disobeys a clear lawful operational order and thereby creates a substantial risk of death, serious injury or defeat commits a Class 8 Serious Offence under the Penal Code.
2. A member who intentionally abandons a guarded post, vessel, aircraft, weapon or person in custody during an operation and creates comparable risk commits the same Class 8 Serious Offence.
3. The prosecution shall prove authority, clarity, lawfulness, ability and serious risk beyond reasonable doubt.
4. Fear, fatigue, injury, ambiguity and operational circumstances shall be considered according to general criminal law.

### **Article 113 — Operational falsification and protected information**

1. A member who intentionally falsifies a material operational, casualty, detention, weapons or targeting record to cause or conceal serious harm commits a Class 8 Serious Offence under the Penal Code.
2. Evidence that a member knowingly disclosed properly classified operational information with intent to assist an enemy or create a substantial imminent defence risk shall be referred for prosecution under the Penal Code where its elements are met; this Act creates no residual unclassified offence.
3. Classification, embarrassment or exposure of illegality alone does not establish the offence.
4. A good-faith disclosure through a protected channel or reasonably necessary to expose grave crime is a defence.

### **Article 114 — Civilian courts and jurisdiction**

1. Regional courts have original jurisdiction over offences under this Act, subject to ordinary appeal and the Courts Act.
2. The Judicial Service Commission may assign qualified civilian judges to military-law divisions or circuits, which remain part of the ordinary judiciary.
3. A serving member of the Defence Forces shall not sit as judge or determine criminal guilt.

4. A court may sit securely or remotely where necessary but hearings remain public except for a limitation satisfying Article 17(6) of the Constitution.

#### **Article 115 — Fair trial and legal representation**

1. An accused has the constitutional rights to presumption of innocence, silence, counsel, disclosure, adequate preparation, examination of witnesses, interpretation, reasoned judgment and appeal.
2. Independent military defence counsel or legal aid shall be provided where justice requires and shall not be controlled by the prosecuting chain of command.
3. Classified evidence shall be handled through the least restrictive protective procedure consistent with a fair trial.
4. Evidence obtained through torture, disappearance or serious coercion is inadmissible except against a person accused of that abuse.

#### **Article 116 — No command interference or double process**

1. A commander shall not direct a prosecutor, judge, witness, investigator, defence counsel or appeals panel to obtain a particular result.
2. Administrative action necessary for safety may proceed alongside crime investigation but shall not punish before fair process.
3. A person shall not receive criminal punishment twice for the same offence, and prior discipline shall be considered in any lawful sentence.
4. Acquittal does not prohibit a distinct administrative fitness decision based on fair evidence and a different lawful standard.

### **CHAPTER X**

#### **FINANCE, PROCUREMENT, PROPERTY AND ENVIRONMENTAL RESPONSIBILITY**

#### **Article 117 — Appropriation and financial control**

1. No defence money may be spent except under an appropriation, lawful warrant and the Public Finance Management Act.
2. The defence budget shall include all personnel, operations, intelligence, procurement, foreign assistance, pensions, debt and commercial or special funds.
3. No commander may retain revenue, foreign currency, customs receipt, mining interest or off-budget contribution.
4. Operational urgency permits only the emergency expenditure procedure established by law.

#### **Article 118 — Accounting responsibility**

1. The Secretary for Defence is accounting officer for the ministry and shall coordinate with accountable military officers for assets and operations.
2. Every transaction shall have authorization, purpose, amount, recipient, supporting record and audit trail.



3. Command responsibility does not replace financial responsibility, and financial office does not authorize tactical command.
4. A person who approves unlawful expenditure may be personally accountable according to law.

#### **Article 119 — Classified budgets**

1. A classified program shall appear in the approved budget at a level that permits fiscal control without exposing operational detail.
2. Detailed classified accounts shall be available to the Auditor General and designated Assembly oversight procedure.
3. A generic national-security label shall not justify an unvouched payment or undisclosed fund.
4. The total amount, responsible program and lawful purpose of classified spending shall be recorded.

#### **Article 120 — Application of public procurement law**

1. Defence procurement is governed by the Public Procurement Act.
2. Competition, value, integrity, professional evaluation, contract management, audit and review remain the rule.
3. Security may justify cleared bidders, protected specifications or confidential hearings but not avoidance of competition where secure competition is feasible.
4. A foreign-government or sole-source purchase requires the legal justification, price verification and approvals prescribed by law.

#### **Article 121 — Major defence acquisition**

1. A major acquisition shall follow an approved capability need, lifecycle cost, interoperability, maintenance, training, infrastructure, cybersecurity, environmental and human-rights assessment.
2. The Minister shall notify the competent Assembly committee before commitment and provide secure access to the business case.
3. Offsets, agents, commissions, beneficial owners and intermediary payments shall be disclosed to procurement, audit and anti-corruption authorities.
4. A contract shall include inspection, acceptance, warranty, data, audit, suspension and termination protections.

#### **Article 122 — Weapons and ammunition accountability**

1. Every weapon, major component, munition and explosive shall have a unique inventory identity, authorized custodian, secure storage and complete movement record.
2. Issue, expenditure, loss, recovery, destruction and transfer shall be reconciled promptly.
3. Stockpiles shall be assessed for safety, obsolescence, diversion and environmental risk and disposed of through verified demilitarization.

4. Loss, illicit diversion or unexplained discrepancy shall be reported immediately and independently investigated.

#### **Article 123 — Defence land, bases and infrastructure**

1. A defence base or training area shall be established under law, spatial planning and documented security need.
2. Existing lawful land rights, village interests, pastoral routes, water access, environment and fair compensation shall be respected.
3. Base boundaries, danger zones and access rules shall be published to the extent compatible with security and physically marked.
4. Land no longer reasonably required shall be returned or disposed of under land and public-property law.

#### **Article 124 — Environmental and community responsibility**

1. The Defence Forces shall assess and reduce pollution, unexploded ordnance, fuel leakage, noise, habitat damage, waste and climate risk.
2. Training and operations shall protect water, farmland, fisheries, pastoral mobility, cultural sites and civilian safety so far as feasible.
3. Communities shall receive warning, emergency contact and a procedure for damage claims.
4. Defence secrecy shall not conceal a continuing public-health or environmental hazard.

#### **Article 125 — Commercial activity and productive service**

1. The Defence Forces shall not own or operate an ordinary commercial enterprise, control civilian markets or use members as a captive labour force.
2. Article 12(2) of the Constitution shall be implemented through professional readiness, efficient stewardship, lawful engineering, disaster assistance and development of transferable skills, not military business privilege.
3. A temporary sale of surplus, mess service or welfare facility shall be incidental, transparently accounted and noncompetitive with private enterprise.
4. An existing military-controlled enterprise shall be transferred, privatized or dissolved under the State-Owned Enterprises and Privatization Act.

#### **Article 126 — Foreign assistance, gifts and donations**

1. Foreign military assistance, equipment, training, construction or money shall be accepted only through lawful executive authority, treaty process, budget and transparent accounting.
2. Conditions shall not surrender sovereignty, create secret debt, require unlawful conduct or bypass procurement and audit.
3. Personal gifts or benefits to a member or official connected with defence business are prohibited except nominal items declared under integrity rules.
4. The annual report shall disclose aggregate assistance, source, purpose and obligations subject to narrow operational redaction.

### **Article 127 — Audit and Assembly access**

1. The Auditor General has full constitutional authority over defence revenues, expenditure, assets and financial operations.
2. Auditors shall receive secure clearance, facilities, records and personnel access and shall protect operational information lawfully.
3. The competent Assembly committee shall receive audit findings and corrective plans through secure procedure where necessary.
4. Classification, command privilege or foreign confidentiality shall not defeat constitutional audit.

### **Article 128 — Records preservation**

1. Personnel, operational, targeting, casualty, detention, property, financial, intelligence and disciplinary records shall be retained under an approved schedule.
2. Records relevant to disappearance, grave abuse, corruption, war crime, land claim, toxic exposure or historical accountability shall not be destroyed while reasonably needed.
3. A destruction decision shall be authorized, logged and suspended upon investigation, litigation, audit or preservation notice.
4. Archives of enduring national value shall transfer securely to the national archives when operational sensitivity has expired.

## **CHAPTER XI**

### **INSPECTION, COMPLAINTS, ACCOUNTABILITY AND REMEDIES**

### **Article 129 — Defence Inspector-General**

1. A Defence Inspector-General shall conduct internal inspection of readiness, legality, discipline, personnel welfare, intelligence compliance, procurement, assets and implementation of corrective action.
2. The Inspector-General may inspect any unit, record, place or activity and communicate directly with the President, Minister, Chief, Auditor General and competent Assembly committee.
3. The Inspector-General shall not replace criminal investigation, external audit, the Defence Ombud or judicial remedy.
4. Material findings and unresolved obstruction shall be reported promptly.

### **Article 130 — Appointment and independence of Inspector-General**

1. The President shall appoint a qualified Inspector-General after consultation with the Minister, Chief, Auditor General and competent Assembly committee.
2. The Inspector-General serves a five-year nonrenewable term and may be removed for incapacity, serious misconduct or grave failure after fair process and written reasons.
3. Inspection staff shall include civilian and military legal, audit, operational, medical, technological and investigative expertise.

4. No commander may control an inspection concerning that commander.

#### **Article 131 — Defence Ombud**

1. An independent Defence Ombud is established to receive complaints from members, former members, families, civilians and communities affected by defence administration or operations.
2. The Ombud is independent of the President, Minister, Defence Forces, Police Service, intelligence services and political organizations in deciding complaints.
3. The Ombud has a separately identified appropriation and is audited by the Auditor General.
4. The Ombud shall provide accessible offices, secure digital filing, language assistance and confidential channels.

#### **Article 132 — Appointment and tenure of Ombud**

1. The President shall appoint the Ombud from a public merit list after approval of the National Assembly.
2. The Ombud shall possess substantial legal, human-rights, military-administration, mediation or public-integrity experience and shall not have held active military or party command during the preceding three years.
3. The Ombud serves a single term of six years and may be removed only for incapacity or serious misconduct after an independent inquiry and Assembly approval.
4. The office shall reflect Eritrea's linguistic, regional and gender diversity.

#### **Article 133 — Jurisdiction and powers of Ombud**

1. The Ombud may investigate maladministration, unlawful retention, pay, discrimination, harassment, retaliation, family welfare, civilian harm, property damage, detention, missing records and systemic abuse.
2. The Ombud may summon persons, require records, inspect defence places, interview privately and apply to a court for a warrant or protective order.
3. Operational information may be handled securely but shall not be withheld from the Ombud on classification alone.
4. Where evidence indicates crime, the Ombud shall preserve it and refer the complete matter to the Advocate General, police or competent prosecutor.

#### **Article 134 — Recommendations and compliance**

1. The Ombud may recommend correction, release, payment, restoration, apology, discipline, policy change, compensation, investigation or another lawful measure.
2. The responsible authority shall respond with reasons within sixty days and state action taken.
3. The Ombud may publish noncompliance and apply to a competent court for enforcement of access or protection.
4. A recommendation does not limit a person's right to court or another remedy.

### **Article 135 — Protection of complainants**

1. A complaint may be made directly, through a representative, anonymously or confidentially where practicable.
2. No person shall be punished, deployed dangerously, denied release, threatened or disadvantaged for a good-faith complaint or cooperation.
3. The Ombud may order an interim administrative protection and may seek urgent court relief.
4. Obstruction, retaliation, evidence destruction or knowingly false official information shall be referred for discipline or prosecution.

### **Article 136 — Civilian harm and claims**

1. The Defence Forces shall maintain a civilian-harm tracking and response system for death, injury, displacement, property loss and damage to livelihoods arising from operations or training.
2. A claim shall be acknowledged, investigated promptly and resolved with reasons without requiring proof inaccessible because it is held by the Defence Forces.
3. Condolence or urgent assistance does not waive compensation or admit liability unless stated in a lawful settlement.
4. Aggregate incidents, findings and payments shall be reported publicly subject to privacy and security.

### **Article 137 — State liability and remedies**

1. The State is liable according to the Civil Code and other law for wrongful conduct of members acting in or apparently under official functions.
2. A court may grant declaration, injunction, release, return of property, correction, reinstatement, payment, compensation and another effective remedy.
3. A member may be personally liable for intentional or grossly unlawful conduct, subject to fair process.
4. Internal discipline, military necessity or payment by a welfare fund does not extinguish a victim's lawful remedy.

### **Article 138 — Access to courts and habeas corpus**

1. No Act, regulation, service order or operational direction may exclude constitutional review or habeas corpus.
2. A member or civilian may petition a competent court concerning detention, unlawful order, service status, pay, discipline, discrimination, property, injury or another legal interest.
3. Exhaustion of an internal remedy is not required where it is unavailable, unsafe, biased, unduly delayed or incapable of effective urgent relief.
4. The Defence Forces shall comply promptly with every court order.

## CHAPTER XII

### INTERNATIONAL COOPERATION, TRANSITION AND FINAL PROVISIONS

#### **Article 139 — International defence cooperation**

1. Defence cooperation shall follow the Constitution, Treaty-Making Act, approved foreign policy, national budget and applicable international law.
2. A cooperation agreement shall identify parties, purpose, command, status, jurisdiction, finance, information, weapons, environmental duties, duration and termination.
3. The President may negotiate and sign an agreement, but an agreement requiring ratification has domestic and international effect for Eritrea only through the constitutional treaty process.
4. Cooperation shall not support aggression, coup, repression, mercenary activity or grave human-rights abuse.

#### **Article 140 — Foreign forces in Eritrea**

1. A foreign armed force has no coercive authority in Eritrea except under a treaty ratified by law or a narrow temporary visit authorized under this Article.
2. The President may authorize a port visit, aircraft visit, training visit or exercise not exceeding ninety days and shall notify the National Assembly with material terms.
3. Visiting forces remain subject to Eritrean law except a jurisdictional arrangement ratified by law.
4. Weapons, movement, environmental protection, claims and departure shall be regulated in writing.

#### **Article 141 — Foreign bases and long-term stationing**

1. A foreign military base, exclusive facility, long-term stationing or foreign operational control of Eritrean territory, port, airfield or communications requires a treaty ratified by an Assembly Act.
2. The Act shall disclose duration, geographic scope, compensation, jurisdiction, environmental duties, renewal, termination and prohibited uses.
3. No secret executive agreement, lease, debt arrangement or military order may create such a right.
4. The National Assembly may require periodic review and termination where constitutional conditions are breached.

#### **Article 142 — Arms transfer and military assistance abroad**

1. Export, transfer, transit, brokering, gift or loan of military weapons, technology or training requires authorization under arms-control and customs law.
2. Authorization shall be denied where there is a substantial risk of aggression, diversion, terrorism, organized crime, repression or serious violation of international humanitarian or human-rights law.
3. End-use, recipient, quantity, value, transport, retransfer and verification shall be recorded.

4. A classified transfer remains subject to budget, audit and Assembly oversight.

#### **Article 143 — Humanitarian organizations and protecting functions**

1. The Defence Forces shall respect the lawful independent role of the International Committee of the Red Cross, Eritrean Red Cross Society and impartial humanitarian organizations.
2. Access to persons protected by international humanitarian law shall be provided as required by applicable law and agreements.
3. Humanitarian personnel shall not be compelled to perform intelligence or political functions.
4. Confidential humanitarian dialogue shall not prevent investigation of evidence obtained lawfully from another source.

#### **Article 144 — Transition to a professional Defence Force**

1. Within twelve months after commencement, the President shall publish a phased plan for a compact professional Regular Force, voluntary Reserve Force and separation from indefinite national service and ordinary civilian administration.
2. The plan shall set personnel ceilings, commands, skills, releases, recruitment, salaries, pensions, training, base rationalization and budget.
3. Priority release shall be given to persons beyond the national-service limit who are idle, in nonessential assignments, medically vulnerable or needed for family responsibility.
4. Transition shall preserve essential readiness without using uncertainty to continue unlawful retention.

#### **Article 145 — Personnel census and rank review**

1. Within six months, the Ministry shall complete a verified census of every member, national-service attachment, civilian employee, unit, rank, service date, pay status and release date.
2. Unrecorded personnel and fictitious payroll entries shall be investigated and corrected.
3. Colonel and higher ranks and equivalent commands shall receive professional, legal and integrity review before confirmation in the constitutional force.
4. Review shall be individualized, fair and designed to prevent coup capacity, partisan command and grave-abuse impunity without collective guilt.

#### **Article 146 — Weapons, assets, detention and records audit**

1. Within ninety days, the Chief, Secretary, Inspector-General and Auditor General shall secure and inventory all weapons, ammunition, vehicles, vessels, aircraft, land, accounts, detention places and operational archives.
2. Every detained person shall be identified, registered, brought before a court or released immediately.
3. Secret facilities, unauthorized stockpiles, political files and off-budget assets shall be sealed for independent legal review.

4. Preservation shall protect evidence, public ownership, safety and historical truth.

#### **Article 147 — Regulations and service orders**

1. The President may issue regulations concerning organization, ranks, appointments, reserve service, conditions, discipline, procurement safeguards, intelligence administration, deployments, records and implementation of this Act.
2. A regulation shall not create a criminal offence, compulsory service, detention power, tax, secret fund, foreign base or rights limitation not authorized by an Assembly Act.
3. The Chief may issue service orders on training, readiness, command, safety and operations consistent with this Act and regulations.
4. A service order affecting rights shall be accessible to members and reviewable, and an operationally protected order shall remain available to courts and oversight bodies.

#### **Article 148 — Repeal, savings and periodic review**

1. Prior defence-force instruments are repealed only when identified by verified number, year and title in the statute-law revision schedule.
2. Lawful appointments, contracts, pensions and proceedings continue temporarily to the extent compatible with this Act.
3. Partisan command, indefinite service, secret detention, military commercial privilege, off-budget finance and unpublished coercive authority are not preserved.
4. The National Assembly shall review this Act after three years and at least every five years thereafter, considering security, rights, affordability, technology and implementation evidence.

#### **Article 149 — Commencement**

1. This Act enters into force thirty days after publication in the Gazette.
2. The prohibitions of political use, torture, disappearance, secret detention, child recruitment, indefinite service and off-budget funds apply immediately.
3. The Defence Ombud shall become operational within six months, and competent courts, the Auditor General and Inspector-General shall provide urgent interim oversight.
4. No delayed regulation postpones a constitutional right or prohibition.

Made at Asmara, this \_\_\_\_ day of \_\_\_\_\_ 2026.

THE NATIONAL ASSEMBLY OF ERITREA