

DRAFTING NOTE

IMMIGRATION, ASYLUM AND BORDER ADMINISTRATION 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

The draft replaces the 1992 travel-document, immigration and alien-registration chain and coercive practices that obstruct passports, exit, family unity and protection claims.

3. What the draft retains

It retains lawful border control, visas, residence status, removal of persons without a right to remain, identity documents and national-security screening under law.

4. What the draft updates and modernizes

It adds a right to timely documentation, freedom to leave, individual asylum and non-refoulement procedure, child and family safeguards, alternatives to detention, reasons, review, digital case management, data protection and prohibition of collective expulsion.

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; citizens, passports and departure; visas and entry of non-citizens; stay, residence and family unity; asylum and refugee protection; trafficking, smuggling and vulnerable persons; immigration detention and alternatives; administration of borders and immigration; review and appeals; immigration compliance and removal; offences and administrative penalties; transitional 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

IMMIGRATION, ASYLUM AND BORDER ADMINISTRATION ACT

(ASSEMBLY ACT)

AN ACT TO REGULATE PASSPORTS, ENTRY, STAY, RESIDENCE, ASYLUM, REFUGEE PROTECTION, BORDER ADMINISTRATION, REMOVAL AND IMMIGRATION REVIEW; TO GIVE EFFECT TO THE CONSTITUTIONAL RIGHTS OF ERITREAN CITIZENS TO LEAVE, RETURN AND RECEIVE TRAVEL DOCUMENTS; TO PROTECT FAMILY UNITY, CHILDREN AND PERSONS FACING PERSECUTION OR SERIOUS HARM; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Article 19(9) of the Constitution of Eritrea guarantees every citizen the right to leave and return to Eritrea and to be provided with a passport or other travel document;
WHEREAS Articles 14, 16, 17, 18, 22, 24, 26 and 28 of the Constitution require equality, dignity, liberty, privacy, family protection, fair administration, narrowly defined limitations and effective remedies;

WHEREAS secure borders and orderly migration are legitimate public functions that must be administered under law and not through unpublished discretion;

WHEREAS Eritrea shall protect refugees, asylum seekers, stateless persons, trafficking victims and children consistently with its applicable regional and international obligations, including the principle of non-refoulement;

NOW, THEREFORE, the National Assembly of Eritrea, acting under Articles 19, 24, 26 and 32 of the Constitution, enacts as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

This Act may be cited as the “Immigration, Asylum and Border Administration Act 2026.”

Article 2 — Purposes

1. to secure lawful, efficient and humane administration of borders and migration;
2. to implement citizens’ rights to leave, return and obtain travel documents;
3. to establish objective visa, residence and family-reunification procedures;
4. to provide access to asylum and protection against return to persecution, torture or serious harm;
5. to limit detention, removal, search and data use through due process and independent review; and

6. to provide accessible electronic and non-electronic services with published standards.

Article 3 — Application

1. This Act applies to citizens seeking travel documents or crossing the border and to non-citizens seeking entry, stay, protection, residence or departure.
2. This Act applies at every land, sea and air border, port of entry, transit zone, detention facility, diplomatic mission and electronic immigration service under Eritrean jurisdiction.
3. A special immigration rule in another Assembly Act prevails only to the extent that it expressly provides greater protection or a constitutionally valid specific procedure.
4. Military, intelligence or political instructions do not alter this Act.

Article 4 — Interpretation

In this Act, unless the context requires otherwise—

1. “asylum seeker” means a person who has requested or intends to request international protection and whose claim has not been finally determined;
2. “Authority” means the Immigration and Border Administration Authority established under Article 55;
3. “border” includes a land boundary, territorial port, airport and other lawful place of entry or departure;
4. “child” means a person under eighteen years of age;
5. “family member” includes a spouse, partner recognized by law, child, parent, dependent sibling and another person with a substantial relationship of care or dependency;
6. “non-citizen” means a person who is not an Eritrean national;
7. “non-refoulement” means the prohibition against transferring a person to a place where the person faces persecution, torture, cruel treatment, enforced disappearance, arbitrary deprivation of life or another serious irreparable harm;
8. “passport” includes another internationally recognized travel document issued to a citizen;
9. “permanent resident” means a non-citizen granted indefinite residence under this Act;
10. “refugee” means a person recognized under Article 34;
11. “removal” includes deportation, expulsion, return, rejection, transfer or another compelled departure;
12. “residence permit” means authorization to reside in Eritrea for a stated or indefinite period;
13. “stateless person” has the meaning assigned in the Nationality Act;
14. “Tribunal” means the Immigration and Protection Review Tribunal established under Article 64; and
15. “visa” means authorization to travel to or seek entry into Eritrea for the stated purpose and period.

Article 5 — Governing principles

1. Administration shall respect legality, equality, dignity, liberty, privacy, family unity, best interests of the child, non-refoulement and effective review.

2. A restriction shall pursue a purpose permitted by Article 26 of the Constitution and shall be necessary, proportionate, of general application and no broader than required.
3. No person shall be discriminated against on grounds including race, color, ethnic origin, language, sex, gender, religion, disability, political opinion, nationality, birth, family status, wealth or migration status.
4. Irregular entry or stay shall not deprive a person of constitutional dignity, protection, hearing or remedy.

Article 6 — Individualized decision-making

1. A decision affecting entry, stay, detention, protection or removal shall consider the person's individual facts.
2. Collective expulsion and automatic refusal based solely on nationality, ethnicity, religion, family association or migration route are prohibited.
3. A risk profile may guide lawful screening but shall not replace evidence or an individualized decision.
4. Automated systems may assist but shall not make a final adverse decision without meaningful human review.

CHAPTER II CITIZENS, PASSPORTS AND DEPARTURE

Article 7 — Right to a passport

1. Every Eritrean citizen is entitled to a passport or other appropriate travel document.
2. A passport evidences identity and nationality for travel but does not create or terminate nationality.
3. The Authority shall issue a standard adult passport valid for ten years and a child passport valid for five years unless technology or international standards require another reasonable period.
4. A citizen may apply domestically, at a diplomatic mission or through a secure electronic procedure.

Article 8 — Passport application

1. An applicant shall provide identity, nationality, photograph, biometrics reasonably necessary for security, the prescribed fee and any additional information authorized by published regulations.
2. The Authority shall obtain existing government records rather than repeatedly require the citizen to produce them.
3. A citizen lacking ordinary records may establish identity and nationality under the Nationality Act.
4. No political endorsement, national-service clearance, tax clearance or exit authorization may be demanded unless an Assembly Act expressly and constitutionally authorizes the specific requirement.

Article 9 — Time for decision

1. A routine passport application shall be decided within fifteen business days.
2. An urgent application involving health, education, employment, family unity, protection, bereavement or official necessity shall be decided as soon as practicable.
3. Delay shall be explained in writing with a completion date and review information.
4. Failure to decide permits an application to the Tribunal for an order requiring action.

Article 10 — No exit visa

1. A citizen does not require an exit visa, exit permit or administrative permission to leave Eritrea.
2. A carrier or border officer shall not demand an exit authorization from a citizen possessing a valid travel document.
3. A restriction on departure is valid only under Article 12 and a written order authorized by an Assembly Act.
4. An unpublished list, oral direction or administrative practice has no legal effect.

Article 11 — Right to return

1. An Eritrean citizen has the right to enter and return to Eritrea.
2. A citizen shall not be refused entry because a passport is expired, missing or disputed where identity and nationality can reasonably be established.
3. The Authority may conduct proportionate identity verification and issue an emergency document.
4. Citizenship disputes shall be referred promptly under the Nationality Act and shall not result in abandonment in a transit zone or foreign territory.

Article 12 — Lawful restriction on departure

1. A court may temporarily restrict departure where necessary to secure appearance for a serious criminal proceeding, execution of a final criminal sentence, protection of a child or compliance with another compelling judicial obligation.
2. The order shall state the legal basis, evidence, necessity, duration and review date.
3. A restriction shall use the least restrictive means and shall not exceed six months without a fresh judicial finding.
4. Civil debt, tax collection, national service administration, employment obligation or political disagreement does not by itself justify a travel ban.
5. Urgent humanitarian travel shall be considered upon application to the court.

Article 13 — Passport refusal, suspension or cancellation

1. A passport may be refused, suspended or cancelled only where—
 - a. the applicant's identity or nationality is not established after fair inquiry;
 - b. a valid court order under Article 12 requires temporary restriction;
 - c. the document was materially obtained by fraud;

- d. the document is materially altered, compromised or used by an unauthorized person; or
 - e. replacement is necessary because the document is lost, damaged or technologically invalid.
2. The Authority shall provide notice, reasons, an opportunity to respond and appeal rights unless a short urgent suspension is necessary to prevent imminent misuse.
 3. An urgent suspension expires after seven days unless confirmed through fair procedure.

Article 14 — Emergency travel document

1. A citizen abroad who lacks a usable passport is entitled to an emergency travel document for return to Eritrea and, where justified, necessary onward travel.
2. A diplomatic mission shall provide continuous emergency contact and decide promptly.
3. Inability to pay shall not prevent return to Eritrea.
4. Issuance shall not be conditioned on political activity, tax payment or waiver of legal claims.

Article 15 — Lost or stolen document

1. A citizen shall report a lost or stolen document as soon as reasonably possible.
2. The Authority shall cancel the document in international systems and issue replacement after proportionate verification.
3. A reasonable replacement fee may be charged, subject to waiver for hardship or circumstances beyond the citizen's control.
4. Loss alone is not an offence absent fraud or deliberate misuse.

CHAPTER III VISAS AND ENTRY OF NON-CITIZENS

Article 16 — Visa classes

1. The Authority may issue visitor, business, study, employment, family, transit, humanitarian, diplomatic and other visa classes prescribed under this Act.
2. Each class shall have published eligibility, evidence, fees, validity, conditions and processing time.
3. A visa system shall facilitate legitimate travel, trade, investment, education, tourism, family contact and regional cooperation while protecting security and public health.
4. A visa does not guarantee entry where a lawful ground of refusal arises after issuance.

Article 17 — Electronic and arrival visas

1. The Authority shall provide a secure electronic visa procedure where reasonably practicable.
2. Regulations may designate nationalities, routes or purposes eligible for visa on arrival or visa-free entry under published and reciprocal criteria.

3. Technology failure shall not automatically defeat a timely application or valid authorization.
4. A non-electronic application shall remain available where accessibility, emergency or infrastructure reasonably requires it.

Article 18 — Visa decision

1. A complete application shall be decided within the published period and ordinarily within twenty business days.
2. The decision shall consider purpose, means, accommodation, compliance history, family and economic ties, security, public health and likelihood of lawful departure where relevant.
3. A refusal shall state the lawful ground, material facts and review procedure.
4. Confidential intelligence may be protected only through a procedure permitting meaningful independent review.

Article 19 — Grounds of visa refusal

1. A visa may be refused for material fraud, failure to satisfy the class, a serious and current security threat, a serious communicable-health risk under public-health law, a recent serious immigration violation or an enforceable removal bar.
2. Refusal shall be proportionate and shall consider rehabilitation, time, family unity, child interests and humanitarian circumstances.
3. A peaceful political opinion, religion, ethnicity, disability, poverty or lawful asylum history is not a ground of refusal.
4. A criminal record shall be assessed by seriousness, recency, evidence and present risk rather than automatically.

Article 20 — Entry examination

1. A non-citizen arriving at a border may be examined to establish identity, nationality, authorization, purpose, security, health and protection needs.
2. Examination shall be prompt, respectful, private where appropriate and assisted by an interpreter where necessary.
3. Search, seizure and device inspection require lawful authority, reasonable cause and proportionality under Articles 18 and 26 of the Constitution.
4. A person expressing fear of return or intention to seek asylum shall be referred immediately under Chapter V.

Article 21 — Admission and record

1. An admitted person shall receive a physical or electronic record stating status, authorized period, conditions and review information.
2. A lawful entry record shall be interoperable with residence, employment and civil-status systems subject to data protection.
3. An officer shall not impose an unpublished condition.

4. A clerical error may be corrected without penalizing the person who reasonably relied on the record.

Article 22 — Refusal of entry

1. Entry may be refused only on a ground applicable under Article 19 or because the person lacks required authorization.
2. Before refusal, the person shall receive the substance of the concern and a reasonable opportunity to respond.
3. Refusal shall be written and shall state review rights, return arrangements and any temporary admission considered.
4. A child, asylum seeker, trafficking victim, stateless person or person with urgent medical need shall receive appropriate protection and shall not be summarily returned.

Article 23 — Transit

1. A person in direct transit shall not be treated as admitted unless lawfully authorized.
2. Transit-zone jurisdiction remains subject to the Constitution, this Act and non-refoulement.
3. A carrier or foreign arrangement shall not transfer a person through Eritrea without documentation, safety and onward-admission arrangements.
4. Prolonged confinement in transit requires judicial supervision under Chapter VII.

CHAPTER IV STAY, RESIDENCE AND FAMILY UNITY

Article 24 — Temporary residence permits

1. A non-citizen may receive temporary residence for employment, study, business, family, humanitarian, medical, research, religious, cultural or other lawful purpose.
2. Eligibility, duration and conditions shall be published and related reasonably to the purpose.
3. A permit may be renewed where conditions remain satisfied or compelling circumstances justify continuation.
4. Minor or curable non-compliance shall ordinarily be corrected before cancellation.

Article 25 — Permanent residence

1. A person may apply for permanent residence after five years of lawful habitual residence.
2. The period may be reduced for the spouse, parent or child of an Eritrean, a recognized refugee, a stateless person, a person of Eritrean origin, exceptional contribution or compelling humanitarian circumstances.
3. The decision shall consider integration, family, compliance, serious criminality and present security risk.
4. Wealth or investment alone does not create entitlement except under transparent legislation enacted by the National Assembly.

Article 26 — Family reunification

1. An Eritrean citizen or lawful resident may sponsor a spouse, partner, minor child, dependent parent or another dependent family member.
2. The Authority shall give substantial weight to family unity, dependency, child interests, disability, safety and practical ability to live together elsewhere.
3. A reasonable income requirement may ensure basic support but shall not permanently separate a genuine family because of poverty.
4. Applications involving children, refugees or urgent protection shall receive priority.

Article 27 — Independent status of family member

1. A spouse or adult family member shall receive an independent residence status after no more than two years.
2. Immediate independent status shall be available in cases of domestic violence, death, abandonment, divorce, trafficking or other vulnerability.
3. A sponsor shall not control the family member's passport, employment or access to authorities.
4. Termination of the relationship does not automatically terminate a child's or vulnerable person's status.

Article 28 — Students and researchers

1. A student or researcher admitted to a recognized institution may reside for the program and reasonable completion period.
2. Reasonable part-time employment and practical training may be authorized by published rules.
3. A graduate shall receive a reasonable period to seek employment, establish a business or apply for another status.
4. Academic freedom and lawful research shall not be restricted through immigration conditions.

Article 29 — Employment and business residence

1. Employment and business permits shall be coordinated with labour, investment and commercial laws through a transparent single-window process.
2. A permit shall identify whether employment is open, occupationally limited or employer-specific.
3. An employer-specific permit shall permit change of employer where necessary to prevent exploitation, unemployment or abuse.
4. Migrant workers have the protections of the Labour Code of Eritrea 2026 and may complain without automatic immigration retaliation.

Article 30 — Humanitarian residence

1. The Authority may grant humanitarian residence where removal would cause exceptional hardship, serious health risk, family separation or other compelling injustice.
2. A trafficking victim, disaster-displaced person, witness, stateless person or person unable safely to return may qualify.
3. The permit shall provide access to lawful work, essential services and documentation.
4. Humanitarian status does not prevent application for asylum or another more durable status.

Article 31 — Conditions and cancellation

1. A residence condition shall be authorized, published, relevant and proportionate.
2. Cancellation requires material breach, fraud, loss of essential eligibility or a serious current security ground.
3. The person shall receive notice, evidence, an opportunity to respond and appeal, except for a short emergency measure subject to prompt review.
4. Family, child, health, residence length, ties and consequences shall be considered.

CHAPTER V ASYLUM AND REFUGEE PROTECTION

Article 32 — Right to seek asylum

1. Every person within Eritrean jurisdiction may seek asylum regardless of manner of entry or documentation.
2. A request may be made orally or in writing to any border, police, detention, military, maritime or public official.
3. The official shall record the request, provide information and refer the person immediately to the Protection Directorate.
4. No person shall be rejected, penalized or removed before access to the procedure and risk screening.

Article 33 — Non-refoulement

1. No person shall be removed, rejected, extradited, transferred or otherwise sent to a place where substantial grounds show a real risk of persecution, torture, cruel treatment, arbitrary killing, enforced disappearance or other serious irreparable harm.
2. Protection applies to direct and indirect transfer through a third country.
3. The prohibition against return to torture or comparable peremptory harm is absolute.
4. A diplomatic assurance shall not be relied upon unless specific, reliable, independently monitorable and sufficient in practice.

Article 34 — Refugee definition

1. A refugee is a person outside the country of nationality or habitual residence who, owing to a well-founded fear of persecution for race, religion, nationality, membership of a particular social group or political opinion, is unable or unwilling to obtain its protection.
2. A person is also a refugee where compelled to leave because of external aggression, occupation, foreign domination or events seriously disturbing public order.
3. A stateless person is assessed by reference to the country of former habitual residence.
4. The definition shall be interpreted consistently with applicable United Nations and African refugee law.

Article 35 — Protection Directorate

1. A professionally independent Protection Directorate is established within the Authority.
2. Protection decisions shall be separated from border enforcement, intelligence and removal functions.
3. Officers shall receive training in refugee law, trauma, credibility, children, gender, disability, trafficking and country information.
4. Performance shall not be measured by refusal or removal numbers.

Article 36 — Registration and documentation

1. An asylum seeker shall be registered promptly and receive documentation confirming lawful temporary presence.
2. Documentation shall permit identity, movement reasonably necessary for the procedure, essential services and protection against removal.
3. Lack of identity documents is not a ground to reject the claim.
4. Biometric collection shall be necessary, secure and not shared with an alleged persecuting state.

Article 37 — Reception conditions

1. An asylum seeker shall receive humane reception, shelter where needed, emergency health care, basic subsistence, information and access to communication.
2. Detention shall not be used merely because a person seeks asylum.
3. After ninety days without a final decision, an asylum seeker may work unless delay is attributable materially to the applicant.
4. Children shall have access to education and appropriate care without delay.

Article 38 — Interview and evidence

1. The applicant shall receive a confidential interview with a trained officer, interpreter and representative where desired.
2. The procedure shall account for trauma, age, gender, disability, cultural difference and difficulty obtaining evidence.

3. Credibility shall be assessed from the evidence as a whole and shall not rest on minor inconsistency or stereotype.
4. Country information shall be current, balanced, disclosed in substance and open to response.

Article 39 — Child asylum claims

1. The best interests of the child are a primary consideration in every action.
2. An unaccompanied or separated child shall receive a qualified guardian and legal representative promptly.
3. A child-sensitive procedure shall consider child-specific persecution and the child's views according to age and maturity.
4. A child shall not be detained for an immigration purpose.

Article 40 — Exclusion

1. A person may be excluded from refugee status only where serious reasons show responsibility for a crime against peace, war crime, crime against humanity, serious non-political crime outside Eritrea or an act contrary to the purposes and principles of the United Nations.
2. Exclusion shall be interpreted narrowly and decided individually with procedural safeguards.
3. Exclusion from refugee status does not remove protection against torture or other prohibited refoulement.
4. Family members shall not be excluded solely by association.

Article 41 — Decision and status

1. A protection claim shall be decided within six months unless complexity reasonably requires more time.
2. Recognition is declaratory and confirms refugee status from the time legal criteria were met.
3. A recognized refugee receives residence, identity and travel documents, lawful work, education, health access, family unity and equal protection according to law.
4. Refusal shall provide reasons, evidence in substance and appeal rights.

Article 42 — Temporary and complementary protection

1. A person not meeting the refugee definition shall receive complementary protection where non-refoulement or serious generalized harm prevents return.
2. Temporary protection may be declared for a mass influx where individual processing cannot operate promptly.
3. Temporary protection shall provide safety, documentation, basic services, family unity and access to individualized asylum procedure.
4. Temporary status shall be reviewed and shall not be ended while return remains unsafe.

Article 43 — Cessation and revocation

1. Refugee status ceases only under grounds recognized by applicable refugee law and after durable fundamental change or voluntary re-establishment of protection.
2. Revocation for fraud requires proof that material intentional deception caused recognition.
3. Cessation or revocation requires notice, hearing and appeal and remains subject to non-refoulement.
4. Long residence, family, health and statelessness shall be considered for another status.

Article 44 — Durable solutions

1. The State shall pursue voluntary repatriation in safety and dignity, local integration and third-country resettlement.
2. No refugee shall be pressured to return through withdrawal of basic rights or services.
3. A recognized refugee may apply for permanent residence and nationality under the applicable Acts.
4. International cooperation shall respect refugee choice, family unity and data protection.

CHAPTER VI TRAFFICKING, SMUGGLING AND VULNERABLE PERSONS

Article 45 — Identification and referral

1. Officials shall screen for trafficking, torture, gender violence, disability, serious illness, statelessness, age and other vulnerability.
2. A suspected victim shall be referred to specialized protection and shall not be treated first as an offender.
3. Interpretation, confidential interview, medical care and a safe place shall be provided as necessary.
4. Identification shall not depend on immediate cooperation with law enforcement.

Article 46 — Trafficking victims

1. A trafficking victim receives a recovery and reflection period of at least ninety days.
2. During that period, removal is suspended and the person may receive residence, work authorization, health care, shelter, legal assistance and protection.
3. A durable residence permit may be granted based on safety, recovery, cooperation, family or humanitarian circumstances.
4. Consent to exploitation is irrelevant where coercion, deception, abuse of vulnerability or prohibited child conduct occurred.

Article 47 — Smuggling and humanitarian assistance

1. Organized smuggling for financial or material benefit is subject to criminal law.
2. A migrant shall not be criminally liable merely for being smuggled.

3. Good-faith humanitarian, rescue, family or legal assistance without exploitative purpose shall not be treated as smuggling.
4. Prosecution shall protect life, victims and due process and shall not obstruct asylum.

Article 48 — Age assessment

1. A person claiming to be a child shall be treated as a child where reasonable doubt exists.
2. Age assessment shall be multidisciplinary, non-invasive, culturally appropriate and used only where documentary and other evidence is insufficient.
3. Medical estimates shall not be treated as exact and the benefit of reasonable doubt shall favor minority.
4. The person may challenge the assessment before the Tribunal.

CHAPTER VII IMMIGRATION DETENTION AND ALTERNATIVES

Article 49 — Detention as last resort

1. Immigration detention is exceptional and may be used only under a written statutory ground where necessary and proportionate.
2. Permissible grounds are a substantial risk of absconding, identity verification that cannot reasonably occur otherwise, or prevention of a specific serious threat.
3. Detention shall not punish irregular entry, poverty, inability to produce documents or an asylum claim.
4. Reporting, bond, guarantor, residence, case management and other less restrictive alternatives shall be considered first.

Article 50 — Prohibited detention

1. A child shall not be detained for an immigration purpose.
2. A family with children shall receive community-based accommodation preserving unity and liberty.
3. A victim of torture or trafficking, pregnant person, nursing parent, person with serious disability or illness, or elderly person shall not be detained unless an individualized court finds an extraordinary necessity and suitable care.
4. No person shall be detained in a military camp, secret location or ordinary prison merely for immigration status.

Article 51 — Initial authorization

1. An officer may hold a person for no more than twenty-four hours for necessary examination and arrangements.
2. Continued detention requires an order of a competent court after hearing the person.
3. The State bears the burden of proving legal basis, necessity, proportionality and inadequacy of alternatives.

4. The person shall receive reasons, interpreter, counsel, family contact and access to evidence.

Article 52 — Duration and review

1. A detention order shall not exceed fourteen days.
2. Renewal requires a fresh hearing and proof of diligent progress and realistic removal or determination.
3. Total immigration detention shall not exceed ninety days, and detention ends immediately when removal is not reasonably foreseeable or the ground ceases.
4. Habeas corpus and constitutional relief remain available at all times.

Article 53 — Conditions

1. A detainee shall be treated humanely with adequate space, food, water, health care, communication, legal access, exercise, religion and complaint procedures.
2. Men and women shall receive safe appropriate accommodation and family unity shall be preserved where requested and compatible with safety.
3. Force, isolation and restraint require necessity, proportionality, recording and medical oversight.
4. Independent monitors, courts, counsel and designated human-rights bodies shall have access.

Article 54 — Compensation for unlawful detention

1. A person unlawfully detained is entitled to effective relief and may claim compensation under applicable law.
2. Lack of bad faith does not by itself defeat relief where detention lacked legal basis.
3. Records necessary to challenge detention shall be preserved and disclosed subject to lawful protection.

CHAPTER VIII ADMINISTRATION OF BORDERS AND IMMIGRATION

Article 55 — Immigration and Border Administration Authority

1. An Immigration and Border Administration Authority is established to administer this Act.
2. The President shall assign administrative support to an appropriate ministry under Article 42(13) of the Constitution without changing statutory functions.
3. The Authority shall operate as a professional civilian service separate from military and political organizations.
4. Its enforcement, protection, passport and review-support functions shall be operationally separated to prevent conflicts.

Article 56 — Functions

1. The Authority shall administer passports, visas, residence, border examination, asylum referral, immigration compliance and lawful removal.
2. It shall publish laws, forms, fees, standards, processing times, statistics and responsible offices.
3. It shall cooperate with customs, police, health, labour, civil aviation, ports and local government under written lawful protocols.
4. It shall facilitate travel and commerce as well as enforce law.

Article 57 — Border posts and hours

1. Entry and departure shall occur at designated border posts unless rescue, emergency, local-border or other lawful arrangement applies.
2. The Authority shall publish locations, hours, services and temporary closures.
3. Closure shall be necessary, time-limited and coordinated to avoid stranding persons or disrupting essential trade.
4. Reasonable local-border permits may facilitate communities divided by a border under an Assembly Act or ratified agreement.

Article 58 — Professional standards

1. Officers shall be recruited and promoted on merit under the Civil Service Administration Act.
2. Training shall cover constitutional rights, non-refoulement, children, trafficking, search, use of force, privacy, corruption and customer service.
3. An officer shall identify the officer, give lawful reasons and treat every person respectfully.
4. Targets based on refusals, detentions, fines or removals are prohibited.

Article 59 — Search and inspection

1. A routine border inspection may examine travel documents, baggage and goods within authority provided by law.
2. An intrusive body search requires reasonable cause, privacy, an officer of the appropriate sex where requested, and a written record.
3. Search of electronic-device content requires specific lawful authority, reasonable cause and safeguards proportionate to the privacy intrusion.
4. Legal privilege, journalistic sources, medical confidentiality and protected communications shall receive heightened protection.

Article 60 — Use of force

1. Force may be used only when lawful, necessary and proportionate to an imminent threat or lawful custody purpose.
2. Lethal force is permitted only to protect life from an imminent threat.
3. Force shall never be used merely to deter border crossing or punish flight.

4. Every significant use shall be reported, medically assessed and independently reviewable.

Article 61 — Immigration data systems

1. Data systems shall collect only information necessary for lawful migration, protection and security functions.
2. Access, sharing, retention, correction and audit shall comply with data-protection law.
3. Refugee and asylum information shall not be shared with an alleged persecuting state without informed consent and a lawful protection assessment.
4. A person may access and correct personal immigration data and challenge an adverse watchlist entry.

Article 62 — Carrier obligations

1. A carrier shall take reasonable steps to verify required travel authorization and provide passenger information expressly required by law.
2. A carrier shall not decide asylum claims or return a person contrary to non-refoulement.
3. A penalty requires fault, notice, reasons and review and shall consider rescue, emergency, fraudulent documents and practical verification limits.
4. Carrier arrangements shall not privatize detention or coercive public power.

Article 63 — Complaints and oversight

1. The Authority shall maintain an independent internal complaints office and refer criminal allegations to the proper investigative body.
2. A person may complain without fee, retaliation or effect on an unrelated application.
3. The Auditor General, courts and other lawfully authorized oversight bodies may inspect records and facilities.
4. The Authority shall publish complaint outcomes and systemic reforms without identifying protected persons.

CHAPTER IX REVIEW AND APPEALS

Article 64 — Immigration and Protection Review Tribunal

1. An independent Immigration and Protection Review Tribunal is established.
2. Members shall have legal, refugee, child, medical, migration or human-rights expertise.
3. The President shall appoint members from a merit list prepared by the Civil Service Administration Commission, with approval of the National Assembly.
4. The Tribunal is not subject to direction by the President, a minister, the Authority, police, military, intelligence service or political organization.

Article 65 — Jurisdiction

1. The Tribunal may review visa, entry, residence, passport, family, asylum, detention-related administrative, removal and data-listing decisions under this Act.
2. It may affirm, vary, set aside, substitute a lawful decision, order action, release a person within its jurisdiction or remit with directions.
3. It shall decide law and fact and may receive relevant evidence not previously available.
4. Urgent protection, detention, passport, child and removal cases receive priority.

Article 66 — Procedure

1. Proceedings shall be accessible, expeditious and consistent with natural justice.
2. The person is entitled to notice, interpreter, representation, access to material evidence and a reasoned decision.
3. A hearing may be oral, remote or on documents according to fairness and the person's circumstances.
4. Sensitive evidence may receive the least restrictive protective measure that preserves meaningful challenge.

Article 67 — Suspensive effect

1. An appeal against asylum refusal or removal suspends removal until final determination.
2. An appeal involving passport cancellation, family separation or loss of residence may receive interim protection from the Tribunal.
3. A clearly abusive repeat application may be denied automatic suspension only after individualized review and subject to non-refoulement.
4. No person shall be removed before a reasonable opportunity to seek urgent judicial relief.

Article 68 — Judicial review and appeal

1. A party may appeal a Tribunal decision to the competent regional court on law, constitutional issue, serious procedural error or unreasonable factual conclusion.
2. The competent regional court may grant declaration, injunction, habeas corpus, mandamus, prohibition, compensation where authorized, remittal or another effective remedy.
3. The Court shall review non-refoulement risk independently and rigorously.
4. Final review by the Supreme Court remains available according to law.

Article 69 — Legal assistance

1. A person may be represented at every material stage.
2. Legal aid shall be provided under the Legal Aid Act for detention, asylum, trafficking, child, statelessness, passport deprivation and removal matters where necessary for fairness.
3. A child or person lacking capacity shall receive a guardian or representative.
4. Civil-society and international organizations may provide lawful assistance.

CHAPTER X

IMMIGRATION COMPLIANCE AND REMOVAL

Article 70 — Compliance notice

1. Before adverse action for a curable immigration breach, the Authority shall ordinarily issue a notice stating the breach and reasonable correction period.
2. A notice is unnecessary where fraud, imminent danger, absconding or another serious circumstance makes immediate action necessary.
3. Voluntary correction and proportional administrative measures shall be preferred to detention or removal.
4. A person shall not be penalized for an error caused materially by the Authority.

Article 71 — Removal grounds

1. A non-citizen may be removed after final process for unlawful presence, material violation of status, material fraud, serious criminality or a serious current security threat.
2. Removal is discretionary and shall consider residence length, family, child interests, health, disability, rehabilitation, ties, statelessness, protection risk and consequences.
3. Minor non-compliance or poverty alone does not require removal.
4. A citizen shall never be removed from Eritrea as an immigration measure.

Article 72 — Removal decision

1. A removal decision shall identify the destination, legal basis, facts, protection assessment, family and proportionality analysis, voluntary-departure option and appeal.
2. The person shall receive adequate time and facilities to obtain advice and present evidence.
3. No destination shall be selected without reasonable assurance of admission and safety.
4. A removal order expires after twelve months unless reviewed and renewed on current facts.

Article 73 — Voluntary departure

1. Where appropriate, a person shall receive between fifteen and ninety days for voluntary departure.
2. The period may be extended for children, school terms, health, family, property arrangements or circumstances beyond control.
3. Assistance may include documents, travel, counselling and reintegration support.
4. Voluntary departure shall not be coerced by unlawful detention, destitution or threat.

Article 74 — Enforced removal

1. Enforced removal may occur only after final review rights are exhausted or validly waived and non-refoulement is satisfied.
2. The method shall protect dignity, health and safety and use the least force necessary.
3. Medical fitness and continuity of essential care shall be assessed.

4. Independent monitoring and a complete operational record shall be available for complaint and review.

Article 75 — Entry ban

1. An entry ban may accompany removal only where necessary based on seriousness, recurrence, fraud, crime or security risk.
2. The ban shall state duration and ordinarily shall not exceed five years.
3. A permanent ban requires an exceptional serious threat and periodic review.
4. Family, humanitarian and changed circumstances may justify waiver or cancellation.

Article 76 — Regularization programme

1. The President may propose and the National Assembly may authorize by law a regularization programme for long-resident or vulnerable non-citizens.
2. The programme shall state eligibility, duration, fees, security screening, status and review.
3. It shall be administered transparently and without political or ethnic favoritism.
4. Administrative necessity does not authorize a programme having the force of law without an Assembly Act.

CHAPTER XI OFFENCES AND ADMINISTRATIVE PENALTIES

Article 77 — Document fraud and corruption

1. Evidence of knowing fabrication, alteration, sale or corrupt issuance of an immigration or travel document shall be referred where the conduct may constitute an offence defined and classified by the Penal Code or another Assembly Act.
2. An applicant is not liable for an innocent error, document obtained under coercion or use of false documents reasonably necessary to escape persecution.
3. A public officer who solicits payment, favour, political support or sexual conduct for a service is subject to criminal and disciplinary law according to the elements and procedures prescribed by law.
4. Documents and proceeds may be seized or forfeited only under court supervision.

Article 78 — Administrative penalties

1. Regulations may establish proportionate civil penalties for specified minor reporting, carrier, employer or residence breaches within maxima stated by an Assembly Act.
2. A penalty requires notice, evidence, an opportunity to respond and independent review.
3. Inability to pay shall not lead automatically to detention.
4. Repeated penalties shall not be used to create an unauthorized removal ground.

Article 79 — Employer exploitation

1. An employer shall not confiscate a worker's passport, charge unlawful recruitment fees, threaten immigration retaliation or employ through coercion.
2. A worker may report abuse and change status or employer under protective procedures.
3. Wages and labour remedies remain enforceable regardless of immigration status.
4. Serious exploitation shall be investigated under labour, trafficking and criminal law.

CHAPTER XII TRANSITIONAL AND FINAL PROVISIONS

Article 80 — Existing status and documents

1. A valid passport, visa, residence permit, refugee recognition or other status existing before commencement continues until its stated expiry or lawful replacement.
2. A pending application shall be decided under this Act where its substantive or procedural rule is more favorable.
3. An existing exit-visa or generalized travel-clearance requirement for citizens ceases immediately upon commencement.
4. An unpublished restriction, blacklist or political clearance has no continuing effect.

Article 81 — Review of existing detention and removal

1. Every person held for immigration purposes at commencement shall receive court review within seventy-two hours.
2. A child detained for immigration purposes shall be released immediately into safe community or family care.
3. Every pending removal shall receive a documented non-refoulement and family assessment under this Act.
4. Failure to complete review requires release unless another lawful basis exists.

Article 82 — Records and digitization

1. The Authority shall preserve and digitize travel, visa, residence, asylum and border records under lawful retention schedules.
2. Historical errors, duplicate identities and political annotations shall be reviewed and corrected.
3. Digitization shall not convert unverified or unlawful information into reliable evidence.
4. Individuals shall receive access and correction rights.

Article 83 — Regulations

1. The President may issue regulations concerning document specifications, visa classes, residence procedures, border operations, reception standards, forms, fees, data safeguards and implementation.

2. Regulations shall not reintroduce exit visas, create detention or removal grounds, limit non-refoulement, deny court review or impose conditions outside this Act.
3. Draft regulations shall be published for consultation and reviewed for constitutional rights, child welfare, privacy, labour, trade and applicable treaty obligations.
4. The Authority may issue non-binding operational guidance clearly distinguished from law.

Article 84 — Repeal and savings

1. The Travel Documents and Immigration Proclamation 24/1992 and related amendments and legal notices are repealed upon verification in the official statute-law revision schedule.
2. Any separate prior immigration or alien-registration instrument is repealed only when identified by verified number, year and title.
3. Lawful accrued status, rights, proceedings and documents are preserved subject to this Act.
4. An unconstitutional restriction, indefinite national-service exit control or unpublished practice is not preserved.

Article 85 — Commencement

1. This Act enters into force thirty days after publication in the Gazette.
2. The passport and no-exit-visa provisions take effect immediately upon commencement.
3. The Tribunal and Protection Directorate shall become operational within six months, and existing competent courts and offices shall apply this Act in the interim.
4. Electronic visa and residence services shall begin no later than 1 January 2027 without suspending accessible non-electronic service.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA