

DRAFTING NOTE

LEGAL PROFESSION ACT 2026

1. Status and purpose of this note

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

2. Legislative need and prior law

The draft replaces the advocates framework associated with Proclamation 88/1996 and coordinates professional regulation with the 2015 Codes, Judiciary and Advocate General legislation.

3. What the draft retains

It retains qualification, admission, professional privilege, fiduciary duty, client-account protection, ethical discipline and court authority over practice.

4. What the draft updates and modernizes

It establishes independent self-regulation under law, transparent admission and discipline, continuing competence, legal entities and modern practice, electronic records and trust accounting, foreign and diaspora practitioner pathways, consumer redress and due process.

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; the eritrean bar; education, admission and licensing; rights and duties of advocates; fees, client money and protection; forms of practice and modern services; public, foreign and cross-border practice; complaints and discipline; access to justice 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

LEGAL PROFESSION ACT 2026

(ACT)

AN ACT TO REGULATE THE LEGAL PROFESSION; TO ESTABLISH AN INDEPENDENT ERITREAN BAR; TO PROVIDE FOR EDUCATION, ADMISSION, LICENSING AND PROFESSIONAL PRACTICE; TO PROTECT CLIENTS, CONFIDENTIALITY, CLIENT MONEY AND ACCESS TO JUSTICE; TO GOVERN LAW FIRMS, FOREIGN AND CROSS-BORDER PRACTICE, TECHNOLOGY, COMPLAINTS AND DISCIPLINE; AND TO PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS Articles 17, 19, 48 to 54 of the Constitution of Eritrea require fair proceedings, access to courts, an independent judiciary and lawful administration of justice;

WHEREAS an independent, competent and ethical legal profession is essential to the rule of law and shall owe professional duties to clients, courts, justice and the Constitution rather than to political or private power;

WHEREAS regulation must protect the public without permitting executive, military, political or commercial control of advocates;

WHEREAS modern legal practice requires secure electronic services, transparent fees, responsible use of technology and artificial intelligence, and safeguards for client information and money;

NOW, THEREFORE, be it enacted by the National Assembly of Eritrea, acting under Article 32 of the Constitution, as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

1. This Act may be cited as the “Legal Profession Act 2026”.
2. It applies throughout Eritrea.

Article 2 — Purposes

1. to establish an independent and accountable profession;
2. to protect clients and the administration of justice;
3. to provide fair admission and discipline;
4. to enable diverse forms of modern legal practice; and
5. to promote access to justice and continuing competence.

Article 3 — Interpretation

1. “advocate” means a person admitted and licensed to practise law under this Act;
2. “Bar” means the Eritrean Bar established by Article 7;
3. “client money” means money held by an advocate for or on behalf of another;
4. “firm” includes a sole practice, partnership, company or other authorized practice entity;
5. “practice certificate” means an annual authorization to practise; and
6. “Tribunal” means the independent Legal Profession Disciplinary Tribunal.

Article 4 — Independence of the profession

1. An advocate shall act independently within the Constitution and law.
2. No public authority, political organization, security body, employer or client may direct an advocate to violate professional duty.
3. Professional regulation shall be independent of executive control.
4. Lawful representation of an unpopular person or cause shall not attract retaliation.

Article 5 — Reserved legal services

1. Only an advocate may represent another before a court, hold out as an advocate or perform another service expressly reserved by Assembly Act.
2. A person may represent oneself and may receive lawful assistance from legal-aid workers, unions, family or authorized community representatives.
3. Routine legal information, mediation and document assistance shall not be reserved unnecessarily.
4. Reservation shall protect the public and remain proportionate.

Article 6 — No discrimination

1. Admission, licensing, instruction and professional opportunity shall be free from unconstitutional discrimination.
2. A lawyer shall not refuse service on a prohibited ground, subject to competence, conflict and professional capacity.
3. Reasonable accommodation shall be provided.
4. Measures may address historic exclusion consistently with merit and the Constitution.

CHAPTER II THE ERITREAN BAR

Article 7 — Establishment

1. The Eritrean Bar is established as an independent public professional body.
2. It has legal personality, administrative autonomy and perpetual succession.
3. It shall not be an organ of the executive or a political organization.
4. Its headquarters shall be in Asmara with regional and electronic access.

Article 8 — Functions

1. The Bar shall maintain the roll, issue certificates, set professional standards, support education, protect independence and promote access to justice.
2. It shall administer complaints separately from representative advocacy.
3. It may comment on legislation and justice without party alignment.
4. It shall publish rules, decisions, accounts and annual reports.

Article 9 — Membership

1. Every practising advocate shall be a member of the Bar.
2. A non-practising admitted person may retain voluntary membership on prescribed terms.
3. Membership shall not compel political, ideological or religious expression.
4. Fees shall be reasonable, transparent and subject to hardship arrangements.

Article 10 — General Assembly of advocates

1. The General Assembly consists of members entitled to vote under Bar rules.
2. It elects the Council, approves audited accounts and may debate professional policy.
3. Meetings shall permit secure remote participation.
4. The Assembly shall not interfere in an individual admission or discipline case.

Article 11 — Bar Council

1. The Bar Council governs policy, finance and administration subject to this Act.
2. It shall include regional, gender, experience and practice diversity through fair elections.
3. A majority shall be practising advocates elected by advocates.
4. Council service shall be time-limited and conflicts disclosed.

Article 12 — Public-interest members

1. Three public-interest members shall join the Council for consumer protection, finance and access-to-justice matters.
2. They shall be selected transparently and shall not be serving political, military, police or intelligence officials.
3. They shall not access privileged client information beyond lawful necessity.
4. Their participation shall strengthen, not compromise, professional independence.

Article 13 — Executive Director and staff

1. The Council shall appoint an Executive Director through open competition.
2. Staff shall be professionally recruited and politically neutral.
3. Regulatory, representative and client-protection functions shall have appropriate separation.
4. Employment is governed by fair written terms.

Article 14 — Finance and audit

1. The Bar may receive fees, grants and lawful income without compromising independence.
2. Accounts shall follow recognized standards and be audited independently.
3. Material donors and restricted funding shall be disclosed.
4. The Auditor General may audit public money entrusted to the Bar.

CHAPTER III EDUCATION, ADMISSION AND LICENSING

Article 15 — Eligibility for admission

1. A person is eligible upon recognized legal education, practical training, competence, good character and oath.
2. Citizenship may be required only for a category expressly prescribed by Assembly Act; lawful residents shall not be excluded arbitrarily.
3. Prior political opinion or representation is not adverse character evidence.
4. Requirements shall be published and objectively assessed.

Article 16 — Recognition of legal education

1. A Legal Education Council shall accredit qualifying programs using transparent standards.
2. Standards shall address constitutional law, ethics, procedure, practical skills and technology.
3. Foreign qualifications may be recognized with proportionate bridging requirements.
4. Accreditation decisions are reasoned and reviewable.

Article 17 — Practical training

1. An applicant shall complete supervised practice or another approved practical program.
2. Training shall provide real skills and fair treatment and shall not become unpaid exploitation.
3. Prior relevant experience may receive credit.
4. Placement access shall be monitored for equality.

Article 18 — Admission assessment

1. A fair assessment may test minimum professional competence.
2. Methods shall accommodate disability and language needs.
3. Questions, scoring governance and appeals shall protect integrity and fairness.
4. A commercial provider shall not control admission policy.

Article 19 — Character and fitness

1. Character assessment is confined to honesty, trustworthiness and conduct genuinely relevant to practice.

2. An applicant shall receive adverse information and opportunity to respond.
3. Rehabilitation, age, context and proportionality shall be considered.
4. Anonymous allegation or security opinion alone is insufficient.

Article 20 — Admission by the Supreme Court

1. The Bar shall submit qualified applicants to the Supreme Court for admission.
2. The Court shall admit unless a lawful deficiency is established after hearing.
3. An admission order shall be public and entered on the national roll.
4. Refusal shall state reasons and be appealable or reviewable.

Article 21 — Professional oath

1. Before practice, an advocate shall swear fidelity to the Constitution, courts, clients and justice.
2. The oath shall reject corruption, discrimination and knowing deception.
3. No political-party or personal-loyalty oath may be required.
4. The oath shall be recorded.

Article 22 — Practice certificate

1. An advocate shall obtain an annual practice certificate.
2. Renewal requires fees, continuing competence, insurance and trust-account compliance where applicable.
3. Refusal or condition requires notice, reasons and review.
4. Administrative delay by the Bar shall not suspend a timely complete applicant.

Article 23 — Categories and conditions of practice

1. Rules may provide practising, non-practising, supervised, in-house, public-service and limited foreign categories.
2. A condition shall address a demonstrated risk and be proportionate.
3. A certificate shall be verifiable electronically.
4. No category shall diminish duties to court and law.

CHAPTER IV RIGHTS AND DUTIES OF ADVOCATES

Article 24 — Right to practise

1. An advocate with a valid certificate may provide legal services throughout Eritrea subject to lawful jurisdictional requirements.
2. Courts and agencies shall recognize the advocate without additional political clearance.
3. Access to a client, file and proceeding shall not be obstructed unlawfully.
4. Professional identity shall be securely verifiable.

Article 25 — Duty to client

1. An advocate shall act competently, diligently, loyally and promptly within lawful instructions.
2. The advocate shall explain material options, risks, costs and decisions.
3. A client controls objectives; the advocate controls professional means consistent with consultation.
4. An advocate shall not assist crime, fraud or abuse.

Article 26 — Duty to court and justice

1. An advocate shall be candid, preserve evidence, obey lawful orders and not knowingly mislead.
2. Duty to court prevails over a client instruction to deceive or obstruct.
3. An advocate may advance every good-faith legal argument and challenge government action.
4. Courtesy shall not suppress fearless representation.

Article 27 — Confidentiality

1. An advocate shall protect information relating to representation regardless of source or form.
2. Disclosure requires client authority or a narrow legal exception necessary to prevent grave harm or comply with court order.
3. Safeguards survive termination and death of the client.
4. Staff, contractors and technology providers shall be bound equivalently.

Article 28 — Legal professional privilege

1. Confidential lawyer-client communications for legal advice and protected litigation material are privileged under law.
2. Privilege belongs to the client and may be waived only knowingly or as law provides.
3. Search or surveillance of legal material requires enhanced independent safeguards.
4. Crime-fraud limits shall be determined by a court.

Article 29 — Conflicts of interest

1. An advocate shall identify and avoid material conflict between clients, former clients, personal interests and duties.
2. Informed consent may cure only a conflict reasonably capable of competent loyal representation.
3. Confidential information shall not be used adversely.
4. Firm-wide conflict and screening rules shall be prescribed.

Article 30 — Competence and diligence

1. An advocate shall possess or obtain knowledge and skill reasonably necessary for the matter.
2. Workload shall not prevent timely service.
3. Specialists may be engaged with informed client agreement.
4. Repeated neglect is misconduct even without dishonest intent.

Article 31 — Undertakings and honesty

1. A professional undertaking shall be clear, authorized and performed.
2. An advocate shall not falsify evidence, bribe, threaten, coach false testimony or communicate improperly with a judge.
3. Negotiation permits advocacy but not knowing material fraud.
4. A mistake affecting a client shall be disclosed promptly.

Article 32 — Withdrawal and termination

1. An advocate may withdraw for lawful sufficient cause and shall withdraw where continued representation violates law.
2. Reasonable notice and protection of client interests are required.
3. Court permission shall be obtained where procedure requires.
4. Files and unearned money shall be returned promptly, subject to lawful limited lien.

CHAPTER V FEES, CLIENT MONEY AND PROTECTION

Article 33 — Fee agreement

1. Fees shall be communicated in a clear written agreement before substantial work where practicable.
2. The agreement shall state basis, expenses, billing, deposits, termination and complaint rights.
3. Fees shall be fair and reasonable considering work, complexity, skill, urgency and result.
4. Hidden and unconscionable charges are prohibited.

Article 34 — Contingent and alternative fees

1. A success-based fee is permitted only under written rules protecting informed consent and reasonable limits.
2. It is prohibited in criminal defence and another category where it creates an unacceptable conflict.
3. Third-party funding shall be disclosed to the client and shall not control professional judgment.
4. Fee sharing with non-lawyers is permitted only under authorized structures and safeguards.

Article 35 — Billing and fee review

1. A client is entitled to an intelligible bill and supporting information.
2. Disputed fees may be reviewed by an independent Bar service or court.
3. An advocate shall not hold essential client documents hostage to a genuinely disputed fee where grave prejudice would result.
4. Interest and collection charges shall be disclosed and lawful.

Article 36 — Trust accounts

1. Client money shall be deposited promptly in a designated trust account separate from firm money.
2. Withdrawals require authority, accurate ledger and reconciliation.
3. An advocate shall not borrow, commingle or use client money.
4. Banks shall identify trust status and cooperate with lawful audit.

Article 37 — Trust-account audit

1. A firm holding client money shall maintain records and submit independent reports.
2. The Bar may inspect on risk-based or reasonable grounds while protecting privilege.
3. Shortage shall be reported immediately and remedied.
4. Serious irregularity may justify interim control subject to prompt review.

Article 38 — Client Protection Fund

1. A Client Protection Fund is established to compensate qualifying loss caused by dishonest misappropriation.
2. It may be financed by proportionate levies, recoveries and lawful income.
3. Compensation criteria, limits and review shall be published.
4. Payment does not extinguish recovery against the wrongdoer.

Article 39 — Professional indemnity insurance

1. Practising advocates shall maintain prescribed indemnity coverage unless lawfully exempt.
2. Minimum coverage shall reflect risk and affordability.
3. Insurers shall not direct professional judgment.
4. Claims data may inform prevention without improper disclosure.

CHAPTER VI FORMS OF PRACTICE AND MODERN SERVICES

Article 40 — Authorized practice entities

1. Legal practice may be conducted as a sole practice, partnership, limited-liability entity, cooperative or other authorized form.
2. An entity shall register beneficial ownership, responsible advocates and insurance.

3. Limited liability shall not excuse personal professional misconduct.
4. Governance shall preserve advocate independence.

Article 41 — Multidisciplinary practice

1. A firm may include non-lawyer professionals under rules protecting privilege, conflicts, competence and independence.
2. A non-lawyer owner or manager shall not direct legal judgment.
3. Clients shall be told the structure and applicable protections.
4. The Bar may restrict a structure only on evidence of material risk.

Article 42 — Firm names, advertising and solicitation

1. A firm name and communication shall be accurate and not imply government or judicial endorsement.
2. Truthful advertising and publication of fees and expertise are permitted.
3. Coercive, deceptive or exploitative solicitation is prohibited.
4. Rules shall respect freedom of expression and consumer information.

Article 43 — Technology and cybersecurity

1. An advocate shall use reasonable safeguards for electronic communication, identity, files, payment and remote service.
2. A material breach shall be contained, documented and notified as law requires.
3. Cloud and cross-border services require informed risk management and lawful data protection.
4. Technology failure does not excuse lack of supervision.

Article 44 — Artificial intelligence

1. An advocate may use artificial intelligence but remains responsible for competence, confidentiality, accuracy and professional judgment.
2. Material generated content shall be verified before reliance.
3. A client shall be informed where use materially affects service, risk or fee.
4. Secret automated denial of service and discriminatory systems are prohibited.

Article 45 — Remote and electronic practice

1. Legal advice, signatures, filings and meetings may occur electronically under applicable law.
2. Identity, authority and informed consent shall be reasonably verified.
3. A non-digital alternative shall be offered where exclusion would impair access.
4. The place of electronic practice shall be determined by substantial professional connection, not server location alone.

CHAPTER VII

PUBLIC, FOREIGN AND CROSS-BORDER PRACTICE

Article 46 — Government and public lawyers

1. Government advocates are subject to this Act and owe ultimate professional duty to the Constitution and lawful public interest.
2. An official shall not direct concealment, retaliation or knowingly unlawful advice.
3. Public employment shall not compromise confidential representation authorized by law.
4. The Advocate General's constitutional functions remain governed by the Advocate General Act.

Article 47 — In-house advocates

1. An in-house advocate owes professional duties notwithstanding employment.
2. Privilege applies to qualifying legal advice, subject to law.
3. The advocate shall identify when acting in a business rather than legal capacity.
4. Retaliation for refusing unlawful conduct is prohibited.

Article 48 — Foreign advocates

1. A qualified foreign advocate may receive temporary or continuing registration on reciprocal, public-interest and competence terms.
2. Local association may be required for Eritrean proceedings.
3. Foreign status does not reduce ethics, privilege, tax or discipline obligations.
4. Restrictions shall not be protectionist or discriminatory.

Article 49 — Diaspora and returning Eritrean lawyers

1. The Bar shall provide fair recognition and proportionate bridging for Eritrean lawyers qualified abroad.
2. Citizenship alone does not establish competence, and foreign residence is not disqualification.
3. Remote contribution, teaching, mentoring and temporary practice may be facilitated.
4. Assessment shall be timely and transparent.

Article 50 — International legal services

1. Advocates may cooperate across borders subject to client consent, conflict, privilege, sanctions and data law.
2. A foreign order to disclose protected information shall not be obeyed automatically where inconsistent with Eritrean law.
3. International firms shall register and disclose control.
4. Trade commitments shall preserve independent regulation and access to justice.

CHAPTER VIII COMPLAINTS AND DISCIPLINE

Article 51 — Complaints service

1. Any person may complain without fee through accessible channels.
2. The Bar shall acknowledge, assess and communicate progress.
3. Minor service disputes may be mediated with consent.
4. Good-faith complainants and witnesses are protected.

Article 52 — Independent investigation

1. A regulatory office structurally separate from Bar representation shall investigate.
2. The advocate shall receive allegations and opportunity to respond.
3. Investigators may seek records under lawful privilege safeguards.
4. Serious crime shall be referred to the Advocate General or competent independent authority.

Article 53 — Disciplinary Tribunal

1. An independent Legal Profession Disciplinary Tribunal is established.
2. Panels shall include experienced advocates and public members appointed through transparent process.
3. Members shall be independent of the investigation and conflicts.
4. Serious hearings are public unless a proportionate protective order is made.

Article 54 — Fair hearing and proof

1. The advocate has notice, counsel, disclosure, evidence, questioning and reasoned decision rights.
2. Professional misconduct shall be proved by clear and convincing evidence.
3. Privilege and client interests shall be protected.
4. Delay capable of causing unfairness shall be remedied.

Article 55 — Sanctions

1. Sanctions include advice, caution, reprimand, restitution, fine authorized by Act, conditions, suspension or striking from the roll.
2. Sanction shall be proportionate to dishonesty, harm, intent, pattern, cooperation and rehabilitation.
3. A client remedy is not displaced.
4. A published decision may be redacted only as necessary.

Article 56 — Interim protection

1. The Tribunal may impose urgent temporary restrictions where strong evidence shows serious current risk to clients, money or justice.
2. The advocate shall receive prompt hearing and periodic review.
3. Client files and money shall be protected through independent custodianship.
4. Interim action is not a final finding.

Article 57 — Appeal

1. A party directly affected may appeal a final Tribunal decision to the Supreme Court or designated court.
2. The Bar may appeal a manifestly inadequate or legally erroneous outcome.
3. The court may affirm, vary, set aside or remit.
4. A striking-off order shall not become final without meaningful review opportunity.

Article 58 — Reinstatement

1. A struck or suspended advocate may apply after the prescribed period.
2. The applicant bears the burden of present fitness and rehabilitation.
3. Victim interests, restitution and public protection shall be considered.
4. Refusal shall be reasoned and reviewable.

CHAPTER IX ACCESS TO JUSTICE AND FINAL PROVISIONS

Article 59 — Pro bono and public service

1. The Bar shall promote voluntary pro bono service, clinics, duty representation and public legal education.
2. Any mandatory contribution shall be reasonable, lawful and allow equivalent service or hardship exemption.
3. Pro bono clients receive the same professional duties.
4. Service statistics shall not disclose client identity.

Article 60 — Relationship with legal aid

1. The legal-aid system may contract, employ or appoint advocates under the Legal Aid Act.
2. Independence and client loyalty shall be preserved.
3. Payment rates and administration shall support competent representation.
4. The Bar shall cooperate without controlling individual legal-aid decisions.

Article 61 — Rules and regulations

1. The Bar may make professional rules after public consultation, subject to review for legality.

2. Rules may govern admission administration, certificates, entities, accounts, insurance, ethics and complaints.
3. They shall not create crimes, imprisonment or executive control.
4. The President may issue only transitional administrative regulations after consultation with the Bar and judiciary.

Article 62 — Registers and public information

1. The Bar shall maintain searchable registers of advocates, firms, certificate status and public discipline.
2. The register shall distinguish suspension, retirement, death and administrative lapse accurately.
3. Private addresses and protected information shall not be exposed.
4. Authentic electronic verification shall be free.

Article 63 — Transitional admission and practice

1. Existing practitioners shall apply for recognition within twelve months under fair published criteria.
2. Experience may satisfy education or training components where competence is demonstrated.
3. Serious abuse, corruption or impersonation shall be examined individually with due process.
4. Temporary certificates may preserve client representation during review.

Article 64 — Review of prior instruments

1. The Advocate General and Bar shall review prior advocacy, licensing, notarial and legal-service instruments within twelve months.
2. Verified repeal and savings shall be proposed to the National Assembly.
3. Authentic historical texts shall not be silently altered.
4. Political licensing and unpublished restrictions have no effect.

Article 65 — Repeal and savings

1. Prior legal-profession instruments are repealed only when verified in the statute-law revision schedule.
2. Lawful client rights, privilege, proceedings, fees and professional interests continue subject to this Act.
3. Executive control of admission, political exclusion and secret discipline are not preserved.
4. Existing subordinate rules expire within eighteen months unless lawfully remade.

Article 66 — Commencement

1. This Act enters into force ninety days after publication in the Gazette.
2. Articles 4, 24 to 32, 36, 43, 44 and 46 apply immediately to existing practitioners.

3. The Bar and Tribunal shall be constituted within six months.

Made at Asmara, this ____ day of _____ 2026.

THE NATIONAL ASSEMBLY OF ERITREA