http://mekaleh-eritra.org/index.php/homepage-3/homepage-4/481-bewerihhi-10-hha-le-1952-bibayito-

# II. Constitution of Eritrea

## (TEXT OF THE CONSTITUTION AS ADOPTED BY THE ERITREAN ASSEMBLY ON 10 JULY 1952)

## TABLE OF CONTENTS

*Article* *Page*

PREAMBLE ..... 199
PART I. GENERAL
1. Adoption and ratification of the Federal Act ..... 200

CHAPTER I. STATUS OF ERITREA

2. Territory of Eritrea ..... 200
3. Autonomy and federation ..... 200
4. Legislative, executive and judicial powers ..... 200
5. Matters coming within the jurisdiction of Eritrea ..... 200
6. Contribution by Eritrea to the expenses of the Federal Government Assessment and levying of Federal taxes. ..... 201
Revenue from customs duties ..... 201
7. Representation of Eritrea in the Imperial Federal Council ..... 202
Participation of Eritreans in the Federal Government ..... 202
8. Eritrean citizenship ..... 202
9. Rights of Federal nationals who are not Eritrean citizens ..... 202

CHAPTER II. REPRESENTATION OF THE EMPEROR IN ERITREA

10. The Emperor has a representative in Eritrea ..... 203
11. Rank of the Representative of the Emperor ..... 203
12. Administering of the oath of office to the Chief Executive before the Representative of the Emperor. Formal investment of the Chief Executive in office ..... 203
13. Opening and closing of sessions of the Assembly ..... 203

14. Transmission of legislation to the Representative of the Emperor..... 204
15. Promulgation of legislation ..... 204

## CHAPTER III. DEMOCRATIC GOVERNMENT IN ERITREA

16. The principles of democratic government ..... 204
17. Respect for human rights ..... 204
18. Organs for government and provided for by the people and shall act in the interests of the people..... 204
19. Rule of law..... 205
20. Franchise..... 205
21. Federal flag..... 205
Flag, seal and arms of Eritrea..... 205

## CHAPTER IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

### *Section I. Provisions reproduced from the Federal Act*

22. Provisions reproduced from the Federal Act..... 206

### *Section II. Other provisions*

23. Freedoms and equality before the law. Everyone is a person before the law..... 207
24. Prohibition of torture and certain punishments..... 207
25. Right to freedom of movement..... 207
26. Freedom of conscience and religion..... 207
27. No discrimination to the detriment of any religion..... 208
28. Recognition of religious bodies as persons before the law..... 208
29. Religious instruction and worship in public schools..... 208
30. Freedom to express opinions..... 208
31. Right to education and freedom to teach..... 209
32. Associations and companies..... 209
33. Protection of working conditions..... 209
Trade unions..... 209
34. Control by law of the enjoyment of human rights and fundamental freedoms ..... 210
35. Duties of individuals..... 210

## CHAPTER V. SPECIAL RIGHTS OF THE VARIOUS POPULATION GROUPS IN ERITREA

36. Personal status ..... 210
37. Property rights ..... 210
38. Languages ..... 211

# PART II. THE ASSEMBLY

## CHAPTER I. COMPOSITION AND ELECTION OF THE ASSEMBLY

39. Creation of an Assembly representing the Eritrean people ..... 211
40. Number of members of the Assembly ..... 211
41. Constituencies ..... 211
42. Eligibility ..... 212
43. The two voting systems ..... 212
44. Election by direct ballot and election at the second stage in the case of indirect ballot ..... 212
45. Electoral High Commission ..... 213
46. Disputed elections to the Assembly ..... 213
47. Term of the Assembly ..... 214

## CHAPTER II. SESSIONS AND MEETINGS

48. Reuglar sessions ..... 214
49. Special sessions ..... 215
50. Quorum ..... 215
51. Rules of procedure ..... 215
52. Officers of the Assembly ..... 215

## CHAPTER III. STATUS OF MEMBERS OF THE ASSEMBLY

53. Swearing-in of members ..... 216
54. Parliamentary immunity ..... 216
55. Remuneration of members of the Assembly ..... 216

## CHAPTER IV. POWERS OF THE ASSEMBLY

56. General powers of the Assembly ..... 217

*Section I. Legislative functions*

57. Drafting and adoption of legislation..... 217
58. Request for a reconsideration..... 217
Approval of legislation by the Chief Executive..... 217
Publication..... 217

*Section II. Budget*

Submission of the draft budget by the Chief Executive ..... 218
60. Examination and adoption of the budget by the Assembly .... 218
61. All taxation and expenditure must be authorized by law..... 219
62. Form of the budget..... 219
63. Credit for urgent expenditure..... 219
64. Accounts for past financial years ..... 220

*Section III. Election and supervision of the Executive*

65. Election of the Chief Executive ..... 220
66. Supervision of the Executive by the Assembly..... 220

PART III. THE EXECUTIVE

CHAPTER I. COMPOSITION AND APPOINTMENT

67. Composition of the Executive..... 221
68. Election of the Chief Executive ..... 221
69. Appointment of Secretaries of Executive Departments ..... 221
70. Incompatibility ..... 222
71. Acting Chief Executive..... 222
72. Swearing-in of the Chief Executive ..... 222
73. Swearing-in of Secretaries of Executive Departments ..... 223
74. Council of the Executive..... 223
75. Removal from office of the Chief Executive ..... 223

CHAPTER II. POWERS OF THE EXECUTIVE

76. Enumeration of powers ..... 224
77. Power of the Chief Executive to issue orders when the Assembly is not in session ..... 225
78. Limitation in time of emergency of certain constitutional provisions 225

79. Suppression of brigandage ..... 226

CHAPTER III. THE ADMINISTRATION

80. Condititons of appointment of officials..... 226
81. Status of officials..... 226
82. Civil Service Commission..... 226
83. Local communities..... 227

PART IV. THE ADVISORY COUNCIL OF ERITREA

84. Advisory Council of Eritrea..... 227

PART V. THE JUDICIARY

SOLE CHAPTER

85. Judicial powers ..... 228
86. Qualifications required of judges..... 228
Oath..... 228
Independence of the judiciary..... 228
Status of judges ..... 228
87. Appointment of judges..... 228
88. Responsibility of judges..... 229
89. Composition of the Supreme Court ..... 229
90. Jurisdiction of the Supreme Court ..... 229

SOLE CHAPTER

91. Compliance with the Federal Act and the principles of democratic government..... 230
92. Amendments to the Constitution..... 230
93. Conditions governing the adoption of amendments..... 230
Entry into effect of amendments..... 230

PART VII. TRANSITIONAL PROVISIONS

94. Entry into force of the Constitution..... 231
95. Laws giving effect to the Constitution..... 231
96. Legislation remaining in force when the Constitution comes into effect..... 232
97. Respect for obligations contracted on behalf of Eritrea..... 232

98. Retention of officials in office ..... 232
99. Term of the first Assembly ..... 233

## PREAMBLE

*In the name of Almighty God,*

Trusting that He may grant Eritrea peace, concord and prosperity,

And that the Federation of Eritrea and Ethiopia may be harmonious and fruitful,

*We, the Eritrean Assembly,* acting on behalf of the Eritrean people,

*Grateful* to the United Nations for recommending that Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown and that its Constitution be based on the principles of democratic government,

*Desirous* of satisfying the wishes and ensuring the welfare of the inhabitants of Eritrea by close and economic association with Ethiopia and by respecting the rights and safeguarding the institutions, traditions, religions and languages of all the elements of the population.

*Resolved* to prevent any discrimination and to ensure, under a régime of freedom and equality the brotherly collaboration of the various races and religions in Eritrea, and to promote economic and social progress,

Trusting fully in God, the Master of the Universe.

Do hereby adopt this Constitution as the Constitution of Eritrea.

## PART I. GENERAL

### *Article 1*

**Adoption and ratification of the Federal Act**

1. The Eritrean people, through their representatives, hereby adopt and ratify the Federal Act approved on 2 December 1950 by the General Assembly of the United Nations.

2. They undertake to observe faithfully the provisions of the said Act.

## CHAPTER I. STATUS OF ERITREA

### *Article 2*

**Territory of Eritrea**

The territory of Eritrea, including the islands, is that of the former Italian colony of Eritrea.

### *Article 3*

**Autonomy and federation**

Eritrea shall constitute an autonomous unit federated with Ethiopia under the sovereignty of the Ethiopian Crown.

### *Article 4*

**Legislative, executive and judicial powers**

The Government of Eritrea shall exercise legislative, executive and judicial powers with respect to matters within its jurisdiction.

### *Article 5*

**Matters coming within the jurisdiction of Eritrea**

1. The jurisdiction of the Government of Eritrea shall extend to all matters not vested in the Federal Government by the Federal Act.

2. This jurisdiction shall include:

(a) The various branches of law (criminal law, civil law, commercial law, etc.);

(b) The organization of the public services;

(c) Internal police;

(d) Health;

(e) Education;

(f) Public assistance and social security;

(g) Protection of labour;

(h) Exploitation of natural resources and regulation of industry, internal commerce, trades and professions;

(i) Agriculture;

(j) Internal communications;

(k) The public utility services which are peculiar to Eritrea;

(l) The Eritrean budget and the establishment and collection of taxes designed to meet the expenses of Eritrean public functions and services.

*Article 6*

**Contribution by Eritrea to the expenses of the Federal Government**

1. Eritrea shall bear its just and equitable share of the expenses of Federal functions and services.

**Assessment and Levying of Federal taxes taxes**

2. The Government of Eritrea shall assess and levy in Eritrea, by delegation from the Federal Government, such taxes as are established to that end for the benefit of the whole of the Federation.

**Revenue from customs duties**

3. Within the revenue which accrues to Eritrea shall be included the customs duties on goods entering or leaving the Federation which

have their final destination or origin in Eritrea, in accordance with the provisions of paragraph 4 of the resolution of 2 December 1950 of the General Assembly of the United Nations.

*Article 7*

**Representation of Eritrea in the Imperial Federal Council**

1. The Eritrean representatives in the Imperial Federal Council, composed of equal numbers of Ethiopians and Eritreans, shall be appointed by the Chief Executive with the approval of the Assembly. They shall be formally invested in office by the Emperor.

**Participation of Eritreans in the Federal Government**

2. Eritreans shall participate in the executive and judicial branches and shall be represented in the legislative branch, of the Federal Government, in accordance with law and in the proportion that the population of Eritrea bears to the population of the Federation.

*Article 8*

**Eritrean citizenship**

Persons who have acquired Federal nationality in Eritre under the Federal Act (Section A, paragraph 6 of the General Assembly Resolution 390 A (V) and have been granted Eritrean citizenship in accordance with the laws of Eritrea shall be citizens of Eritrea.

*Article 9*

**Rights of Federal nationals who are not Eritrean citizens**

1. On the basis of reciprocity, Federal nationals who are not Eritrean citizens shall enjoy the same rights as Eritreans.

2. Federal nationals shall enjoy political rights in accordance with the Eritrean Constitution and laws on the basis of reciprocity.

## CHAPTER II. REPRESENTATION OF THE EMPEROR IN ERITREA

*Article 10*

**The Emperor has a representative in Eritrea**

There shall be a representative in Eritrea of His Imperial Majesty, the Emperor of Ethiopia, Sovereign of the Federation.

*Article 11*

**Rank of the Representative of the Emperor**

The Representative of the Emperor shall, on all occasions, have the place of precedence at official ceremonies in Eritrea.

*ARTICLE 12*

**Administering of the oath of office to the Chief Executive before the Representative of the Emperor. Formal investment of the Chief Executive in office**

The Chief Executive, elected by the Assembly in accordance with Article 68, shall take the oath of office in accordance with the provisions of Article 72. The Representative of the Emperor, having noted that the Chief Executive has been elected by the Assembly, shall formally invest him in office in the name of the Emperor, Sovereign of the Federation.

*Article 13*

**Opening and closing of sessions of the Assembly**

At the opening and closing of sessions of the Assembly, the Representative of the Emperor may deliver the speech from the throne in which he will deal with affairs of common interest to the Federation and to Eritrea.

*Article 14*

**Transmission of legislation to the representative of the Emperor**

1. When draft legislation has been voted by the Assembly, the Chief Executive will transmit it immediately to the Representative of the Emperor.

2. If the Representative of the Emperor considers that draft legislation voted by the Assembly encroaches upon Federal jurisdiction, or that it involves the international responsibility of the Federation, he may transmit a request to the Chief Executive within twenty days after the vote by the Assembly for reconsideration of the draft legislation by the Assembly, indicating his reasons for doing so.

*Article 15*

**Promulgation of legislation**

The Representative of the Emperor will promulgate legislation in the manner laid down in Article 58.

## CHAPTER III. DEMOCRATIC GOVERNMENT IN ERITREA

*ARTICLE 16*

**The principles of democratic government**

The Constitution of Eritrea is based on the principles of democratic government.

*Article 17*

**Respect for human rights**

The Constitution guarantees to all persons the enjoyment of human rights and fundamental freedoms.

*Article 18*

**Organs of government are provided for by the people and shall act in the interests of the people**

1. All organs of government are provided for by the people. They are

chosen by means of periodic, free and fair elections, directly and indirectly.

2. The organs of government shall act in the interests of the people.

*Article 19*

**Rule of law**

1. The organs of government and public officials shall have no further powers than those conferred on them by the Constitution and by the laws and regulations which give effect thereto.

2. Neither a group of the people nor an individual shall arbitrarily assume the exercise of any political power or of administrative functions.

3. Public officials shall perform their duties in strict conformity with the law and solely in the public interest.

4. Public officials shall be personally answerable for any unlawful acts or abuses they may commit.

*Article 20*

**Franchise**

The electorate shall consist of those persons possessing Eritrean citizenship who:

(a) Are of male sex;

(b) Have attained the age of twenty-one years;

(c) Are under no legal disability as defined by the law; and

(d) Have been resident for one year preceding the election in the constituency where they shall vote.

*Article 21*

**Federal flag**

1. The Federal flag shall be respected in Eritrea.

**Flag, seal and arms of Eritrea**

2. There shall be a flag, seal and arms of Eritrea, details of which shall be decided upon by law.

## CHAPTER IV. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

### *Section. I. Provisions reproduced from the Federal Act*

#### *Article 22*

**Provisions reproduced from the Federal Act**

The following provisions of paragraph 7 of the Federal Act shall be an integral part of the Constitution of Eritrea:

"The Federal Government, as well as Eritrea, shall ensure to residents in Eritrea, without distinction of nationality, race, sex, language or religion, the enjoyment of human rights and fundamental liberties, including the following:

"(a) The right to equality before the law. No discrimination shall be made against foreign enterprises in existence in Eritrea engaged in industrial, commercial, agricultural, artisan, educational or charitable activities nor against banking institutions and insurance companies operating in Eritrea;

"(b) The right to life, liberty and security of person;

"(c) The right to own and dispose of property. No one shall be deprived of property, including contractual rights, without due process of law and without payment of just and effective compensation;

"(d) The right to freedom of opinion and expression and the right of adopting and practising any creed or religion;

"(e) The right to education;

"(f) The right to freedom of peaceful assembly and association;

"(9) The right to inviolability of correspondence and domicile subject to the requirements of the law;

"(h) The right to exercise any profession subject to the requirements of the law;

"(i) No one shall be subject to arrest or detention without an order of a competent authority, except in case of flagrant and serious violation of the law in force. No one shall be deported except in accordance with the law;

"(j) The right to a fair and equitable trial, the right of petition to the Emperor and the right of appeal to the Emperor for commutation of death sentences;

"(k) Retroactivity of penal law shall be excluded."

*Section II. Other provisions*

*Article 23*

**Freedom and equality before the law. Everyone is a person before the law**

All persons are born free and are equal before the law without distinction of nationality, race, sex or religion and, as such enjoy civil rights and shall be subject to duties and obligations.

*Article 24*

**Prohibition of torture and certain punishments**

No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.

*Article 25*

**Right to freedom of movement**

Everyone resident in Eritrea has the right to freedom of movement and to the choice of place of residence in Eritrea subject to the provisions of Article 34.

*Article 26*

**Freedom of conscience and religion**

The right to freedom of conscience and religion shall include the right of everyone, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

*Article 27*

**No discrimination to the detriment of any religion**

No economic, financial or political measure of a discriminatory nature shall be taken to the detriment of any religion practised in Eritrea.

*Article 28*

**Recognition of religious bodies as persons before the law**

Religious bodies of all kinds and religious orders shall be recognized as possessing juristic personality.

Consequently, any religious denomination or any group of citizens belonging to such denomination shall be entitled:

(a) To establish and maintain institutions for religious, educational and charitable purposes;

(b) To conduct its own affairs in matters of religion;

(c) To possess and acquire movable and immovable property;

(d) To administer its property and to enter into contracts.

*Article 29*

**Religious instruction and worship in public schools**

No pupil attending a public school shall be required to take part in any religious instruction at such school or attend any religious service at such school.

*Article 30*

**Freedom to express opinions**

Everyone resident in Eritrea shall have the right to express his opinion through any medium whatever (Press, speech, etc.) and to learn the opinions expressed by others.

*Article 31*

**Right to education and freedom to teach**

1. Everyone resident in Eritrea shall have the right to education. The Government shall make every effort to establish schools and to train teachers.

2. The Government shall encourage private persons and private associations and institutions, regardless of race, nationality, religion, sex or language, to open schools, provided that they give proof of the required standards of morality and competence.

3. The instruction in the schools shall conform to the spirit of the Constitution.

*Article 32*

**Associations and companies**

1. Everyone resident in Eritrea shall have the right to form associations or companies for lawful purposes.

2. Companies or associations shall enjoy fundamental freedoms in so far as their nature permits.

3. Such companies or associations shall be regarded as persons before the law.

*Article 33*

**Protection of working conditions**

1. Everyone resident in Eritrea, regardless of nationality, race, sex, or religion, shall have the right to opportunity of work, to equal pay for equal work, to regular holidays with pay, to payment of dependency allowances, to compensation for illness and accidents incurred through work and to a decent and healthy standard of live.

**Trade unions**

2. Everyone resident in Eritrea shall have the right to form and to join trade unions for the protection of his interests.

*Article 34*

**Control by law of the enjoyment of human rights and fundamental freedoms**

1. The provisions in the last sub-paragraph of paragraph 7 of the Federal Act apply to the whole of Chapter IV of Part I of the Constitution. This sub-paragraph reads as follows:

"The respect for the rights and freedoms of others and the requirements of public order and the general welfare alone will justify any limitations to the above rights."

2. In applying the aforementioned provisions, the enjoyment of human rights and fundamental freedoms may be regulated by law provided that such regulation does not impede their normal enjoyment.

*Article 35*

**Duties of individuals**

Everyone shall have the duty to respect the Constitution and the laws, and to serve the community.

## CHAPTER V. SPECIAL RIGHTS OF THE VARIOUS POPULATION GROUPS IN ERITREA

*Article 36*

**Personal status**

Nationals of the Federation, including those covered by sub-paragraphs *(b)* and *(d)* of paragraph 6 of the Federal Act, as well as foreign nationals, shall have the right to respect for their customs and their own legislation governing personal status and legal capacity, the law of the family and the law of succession.

*Article 37*

**Property rights**

Property rights and rights of real nature, including those on State lands, established by custom or law and exercised in Eritrea by the tribes, the various population groups and by natural or legal persons, shall not be imparied by any law of a discriminatory nature.

*Article 38*

**Languages**

1. Tigrinya and Arabic shall be the official languages of Eritrea.

2. In accordance with established practice in Eritrea, the languages spoken and written by the various population groups shall be permitted to be used in dealing with the public authorities, as well as for religious or educational purposes and for all forms of expression of ideas.

## PART II. THE ASSEMBLY
## CHAPTER I. COMPOSITION AND ELECTION OF THE ASSEMBLY

*Article 39*

**Creation of an Assembly representing the Eritrean people**

1. Legislative power shall be exercised by an Assembly representing the Eritrean people.

2. Members of the Assembly shall represent the Eritrean people as a whole, and not only the constituency in which they are elected.

*Article 40*

**Number of members of the Assembly**

1. The Assembly shall be composed of not less than fifty and not more than seventy members.

2. Within the limits prescribed in the preceding paragraph, the number of members shall be fixed by law.

*Article 41*

**Constituencies**

1. The territory of Eritrea shall be divided into electoral constituencies, each electing one representative.

2. These constituencies shall be established in such a way that they

will be approximately equal in population. The boundaries of the constituencies shall be fixed by law.

*Article 42*

**Eligibility**

All members of the electorate shall be eligible for election to the Assembly provided that:

(a) They have reached the age of thrity;

(b) They have been resident in Eritrea for three years and have been resided in the constituency for two years during the last ten years;

(c) They are not disqualified for any reason laid down by law; and

(d) They are not officials of the Eritrean or Federal Governments, unless they have resigned at the time of presenting their candidature.

*Article 43*

**The two voting systems**

1. The members of the Assembly shall be elected either by direct or indirect ballot.

2. The system of voting to be used in any given constituency shall be laid down by law.

3. Voting by direct ballot shall be personal, equal and secret.

For this purpose, a roll of qualified voters shall be drawn up, and revised from time to time.

The system for establishing electoral rolls shall be fixed by law.

4. The first stage of voting by indirect ballot shall be conducted in accordance with local custom. At the second stage, voting shall be personal, equal and secret.

*Article 44*

**Election by direc ballot and election at second stage in the case of indirect ballot**

1. If a candiate for the Assembly obtains an absolute majority of the votes cast he shall be declared elected.

2. If no candidate obtains an absolute majority, as defined in paragraph 1, a second ballot shall be held, and the candidate who then obtains the greatest number of votes shall be declared elected.

*Article 45*

**Electoral High Commission**

1. An electoral High Commission consisting of three persons appointed by the Supreme Court established under Article 85 shall be responsible for supervising all electoral proceedings (including the compiling of electoral rolls), and for preventing or putting a stop to irregularities.

2. The High Commission shall appoint, in each constituency, from among the electors of that constituency, a representative to act under its authority.

3. The said representative shall be assisted by an advisory election committee, consisting of members chosen by him from among the electors of that constituency.

As soon as an election period has been declared open in accordance with the law every candidate shall be entitled to be represented on the committee.

4. The implementation of the present article shall be prescribed by law.

*Article 46*

**Disputed elections to the Assembly**

1. At the opening of the session following an election, the Assembly shall confirm its members. All members whose elections are unchallenged shall be confirmed simultaneously.

2. In any case where an election is challenged, the Assembly shall decide, by a two-thirds majority of the members present, whether the challenged election is valid, provided that such tow-thirds majority shall be not less than one half of the members of the Assembly in office.

3. In the event of a member's election not being confirmed, he may,

within three days following the adoption of the decision by the Assembly, appeal to the Supreme Court established under Article 85, but shall not take his seat until the Supreme Court has given its decision.

*Article 47*

**Term of the Assembly**

1. The Assembly shall be elected for a term of four years.

2. Members shall be eligible for re-election.

3. If there is a vacancy during the term of an Assembly, a by-election shall take place. No by-election can, however, take place within six months of the election of a new Assembly.

## CHAPTER II. SESSIONS AND MEETINGS

*Article 48*

**Regular sessions**

1. The Assembly shall hold two regular sessions each year.

2. The Assembly shall meet in regular session on a date to be specified by law.

This session shall continue for at least one month.

3.The opening date of the second regular session shall be fixed by the Chief Executive after consulting the President of the Assembly.

This second session shall be devoted primarily to voting the budget and the Assembly shall consider no other matter until the budget has been voted. The session shall not close until the budget has been voted as prescribed in Article 60.

4. The closing date of reuglar sessions shall be fixed by the Chief Executive after consulting the President of the Assembly.

5. With the consent of the President of the Assembly, the Chief Executive may suspend a session for a period not exceeding twenty days.

*Article 49*

**Special sessions**

1. The Chief Executive may convene the Assembly to a special session.

2. The Chief Executive shall convene the Assembly to a special session whenever a written request is submitted by not less than one-third of the members.

3. When the Assembly is convened to a special session by the Chief Executive on his own intiative, only the questions set forth in the notice convening the Assembly shall be discussed. The Chief Executive shall fix the closing date of the session.

4. When the Assembly is convened to a special session at the request of not less than one-third of its members, it shall determine its own agenda. The Chief Executive shall fix the closing date of the session in agreement with the President of the Assembly.

*Article 50*

**Quorum**

Two thirds of the members of the Assembly shall compose a quorum.

*Article 51*

**Rules of procedure**

The Assembly shall adopt its own rules of procedure.

*Article 52*

**Officers of the Assembly**

The Assembly shall elect its officers at the oepning of the first regular session of each year or at the beginning of a new Legislature. The officers shall consist of a President, a Vice-President and, if the Assembly so desires, other officers.

## CHAPTER III. STATUS OF MEMBERS OF THE ASSEMBLY

*Article 53*

**Swearing-in of members**

Before taking up their duties, members of the Assembly who have not served in the previous Legislature shall take, in accordance with the faith and the customary practice of the individual concerned, the following oath before the President of the Assembly:

"I undertake before Almighty God" (or an invocation conforming to the faith and the customary practice of the member of the Assembly concerned) "to respect the Federation under the sovereignty of the Imperial Crown, loyally to serve Eritrea, to defend its Constitution and its laws, to seek no personal advantage from my office, and to perform all my duties conscientiously"

*Article 54*

**Parliamentary immunity**

1. Members of the Assembly shall not be liable to prosecution for opinions expressed or votes cast by them in the performance of their duties.

2. Members of the Assembly shall not be arrested or prosecuted without the authorization of the Assembly; save that in case of flagrant delict they may be arrested, but the prosecution, even in this case, shall be authorized by the Assembly.

When the Assembly is not in session, such authorization may be given by its officers. The Assembly may subsequently decide that proceedings shall be discontinued.

*Article 55*

**Remuneration of members of the Assembly**

1. Members of the Assembly shall receive a remuneration fixed by law.

2. No increase of remuneration shall take effect until the term of office of the Assembly.voting it has expired.

## CHAPTER IV. POWERS OF THE ASSEMBLY

*Article 56*

**General powers of the Assembly**

The Assembly shall vote the laws and the budget, elect the Chief Executive and supervise the activities of the Executive.

### *Section I. Legislative functions*

*Article 57*

**Drafting and adopting of legislation**

1. Draft legislation may be introduced into the Assembly by members of the Assembly or submitted to the Assembly by the Chief Executive.

2. Such legislation shall be considered, discussed and put to the vote as provided in the Assembly's rules of procedure.

*Article 58*

**Request for a reconsideration**

1. Draft legislation adopted by the Assembly shall be immediately transmitted by the President of the Assembly to the Chief Executive.

**Approval of legislation by the Chief Executive**

2. The Chief Executive will transmit it as soon as received to the Representative of the Emperor who may request, in accordance with the provisions of Article 14, that it be reconsidered by the Assembly.

**Publication**

3. If the Representative of the Emperor, exercising the prerogatives for which provision is made uder Article 14, has transmitted a request to the Chief Executive for reconsideration, giving his reasons for doing so, the Assembly must take a further vote. The draft legislation must obtain a two-thirds majority vote ot be adopted.

4.If the draft legislation has been adopted after reconsideration, as provided in the preceding paragraph, or if the Representative of the Emperor has not exercised his prerogatives under Article 14, the

Chief Executive must within twenty days after the vote taken by the Assembly, either approve the draft legislation and transmit it to the Representative of the Emperor for promulgation within five days of its receipt, or return it to the Assembly with his comments.

5. If the Chief Executive shall have returned the draft legislation to the Assembly, the Assembly shall reconsider the dreft legislation and take a further vote on it. If the draft legislation is then adopted by a two-thirds majority, the Chief Executive shall transmit it to the Representative of the Emperor for promulgation within five days of its receipt.

6. All draft legislation adopted in accordance with the provisions of this article but not promulgated within the time limit laid down in paragraphs 4 and 5 of this Article, shall come into effect after publication by the Chief Executive.

*Section II. Budget*

*Article 59*

**Submission of the draft budget by the Chief Executive**

1. At least one month before the opening of the second regular session of the Assembly, the Chief Executive shall submit a draft budget for the next financial year.

2. The draft budget shall cover the whole of the revenue and expenditures of the Government of Eritrea for the next financial year.

*Article 60*

**Examination and adoption of the budget by the Assembly**

1. During the month preceding the second regular session of the Assembly, the Assembly Finance Committee shall examine the draft budget submitted by the Executive and report to the Assembly.

2. A general debate on the draft budget shall be held at the beginning of the second regular session of the Assembly.

Within ten days following the closure of the debate, the Executive shall submit a revised draft budget including the amendments it may decide to make to its first draft as a result of the observations made

by the Assembly.

3. The Assembly shall then proceed to examine the various items of the budget:

(a) It shall first adopt the expenditure estimates, with or without amendments, only the total estimate for each Executive Department being put to the vote.

The Assembly may not increase the estimates proposed in the draft budget unless increase is balanced by corresponding estimates of revenue and has received the consent of the Executive.

(b) The Assembly shall then adopt, with or without amendments, the revenue estimates chapter by chapter, each of which shall be put to the vote separately.

4. The complete budget shall be adopted before the beginning of the financial year; otherwise, the amended draft budget submitted by the Executive as provided in praragraph 2 above shall be deemed to be adopted, provided the Executive has itself observed the time-limit laid down in Article 59 and in the present article.

*Article 61*

**All taxation and expenditure must be authorized by law**

No tax shall be enacted governing the form in which the budget is to be submitted and voted on each year.

*Article 62*

**Form of the budget**

A law shall be enacted governing the form in which the budget is to be submitted and voted on each year.

*Article 63*

**Credit for urgent expenditure**

1. When voting the budget, the Assembly shall include a credit for urgent expenditure.

2. The amount of this credit shall not exceed 10 per cent of the expenditure estimates.

3. At the beginning of the following session of the Assembly, the Chief Executive shall report on the use he has made of this credit. The Assembly shall take a vote on this report.

*Article 64*

**Accounts for past financial years**

1. Within eighteen months following the close of each financial year, the Executive shall submit, the accounts for that financial year to the Assembly for approval.

2. An Auditor-General, independent of the Executive, shall be elected by the Assembly.

3. The principal function of the Auditor-General shall be to examine the annual accounts, and to make a report to the Assembly containing his observations on them at the time of their presentation to the Assembly.

4. The method of election and the matters within the competence of the Auditor-General shall be established by law.

*Section III. Election and supervision of the Executive*

*Article 65*

**Election of the Chief Executive**

The Assembly shall elect the Chief Executive as provided in Aritcle 68.

*Article 66*

**Supervision of the Executive by the Assembly**

1. Members of the Assembly may submit questions in writing or short questions orally to the Executive, which shall reply.

2. At the request of ten members of the Assembly, a debate may be held on the Executive's policy.

The Executive shall be entitled to intervene both in the course of the debate and before its closure.

# PART III. THE EXECUTIVE

## CHAPTER I. COMPOSITION AND APPOINTMENT

*Article 67*

**Composition of the Executive**

The Executive shall consist of a Chief Executive assisted by Secretaries of Executive Departments.

*Article 68*

**Election of the Chief Executive**

1. The Chief Executive shall be elected by the Assembly by secret ballot; if a candidate obtains two thirds of the votes cast he shall be declared elected. If no candidate obtains the requisite number of votes the candidate receiving the least number of votes shall be removed from the list and the Assembly shall vote again on the remainder repeating the process if necessary until a candidate obtains the required number of votes.

2. Only Eritrean citizens having attained the age of thrity-five years and in possession of their political rights shall be eligible for the office of the Chief Executive.

3. The Assembly shall elect a Chief Executive at the opening of each new legislature.

4. In case of death or resignation of the Chief Executive, the Assembly shall elect a successor within fifteen days. If the Assembly is not in session, the president of the Assembly shall convene it to a special session.

The newly elected Chief Executive shall remain in office until the expiry of his predecessor's term.

5. The Chief Executive shall be eligible for re-election.

*Article 69*

**Appointment of Secretaries of Executive Departments**

1. The Chief Executive shall have power to appoint and dismiss Secretaries of Executive Departments, who shall be responsible to him.

2. Only persons qualified to be members of the Eritrean electorate shall be eligible to hold office as Secretaries of Executive Departments.

3. The Chief Executive shall select the Secretaries of Executive Departments in such a way as to ensure as far as possible a fair representation in his council of the principal groups of the population and the various geographical areas of the territory.

4. The number and the functions of Secretaries of Executive Departments shall be prescribed by law.

*Article 70*

**Incompatibility**

The office of the Chief Executive or of Secretary of an Executive Department is incompatible with the holding of any other administrative or judicial office.

*Article 71*

**Acting Chief Executive**

The Chief Executive, on being elected, shall designate one of the Secretaries of Executive Departments to act for him if he is temporarily prevented from discharging his duties or, if his post fall vacant, until such time as a new Chief Executive is elected.

*Article 72*

**Swearing-in of the Chief Executive**

Before taking up his duties, the Chief Executive shall, according to his faith and customary practice, take the following oath in the Assembly before the Representative of the Emperor:

"I undertake before Almighty God" (or an invocation conforming to the faith and the customary practice of the Chief Executive) "to respect the Federation under the sovereignty of the Imperial Crown, loaylly to serve Eritrea, to defend its Constitution and its laws, to seek the welfare of the Eritrean people in the unity of its inhabitants bound together by ties of brotherhood, whatever their race, religion or language, and to seek no personal advantage from office".

*Article 73*

**Swearing-in of Secretaries of executive Departments**

Before taking up their duties, Secretaries of Executive Departments shall, according to their faith and their customary practices, take the following oath publicly in the Assembly before the Representative of the Emperor:

"I undertake before Almighty God" (or an invocation conforming to the faith and customary practice of the individual concerned) "loyally to respect the Federation under the sovereignty of the Imperial Crown, loyally to serve Eritrea, to respect its Constitution and its laws, to seek no personal advantage from my office, and to perform all my duties conscientiously."

*Article 74*

**Council of the Executive**

The Chief Executive shall from time to time summon a council of the Secretaries of Executive Departments. This Council shall advise the Chief Executive on matters of general policy and on any questions he may submit to it.

*Article 75*

**Removal from office of the Chief Executive**

1. The Chief Executive shall not be answerable for any act performed by him in the course of his duties except for a grave violation of the Constitution. He shall be answerable for failure to dismiss any Secretary of an Executive Department committing a grave violation of the Constitution.

2. In such circumstances, the Chief Executive may be impeached by a two-thirds majority of the members of the Assembly in office, and tried by the Supreme Court established under Article 85.

3. If the Supreme Court finds the charge to be proved, it shall order the removal from office of the Chief Executive. It may, furthermore, disqualify him from performing any executive function or legislative duty.

4. Removal from office shall be without prejudice to any proceedings

which may be instituted if the acts committed by the Chief Executive constitute offences under criminal law.

## CHAPTER II. POWERS OF THE EXECUTIVE

*Article 76*

**Ennumeration of powers**

1. The Chief Executive shall ensure that the Constitution and the laws are enforced. He shall have responsibility for the direction of the Executive and Administrative Departments and public services. He shall be Chairman of the Civil Service Commission for which provision is made in Article 82, and shall make appointments in accordance with the Constitution and the laws.

2. He shall be responsible for the internal police of Eritrea and, to this end, he shall issue regulations conforming to the Constitution and the laws to ensure the maintenance of public order and security.

3. He shall convene the sessions of the Assembly as provided in Articles 48 and 49 of the Constitution.

4. Each year, at the opening of the first regular session, he shall give an account to the Assembly of his conduct of affairs and report on the general situation of Eritrea.

5. He shall have the power to propose legislation. He may request the Assembly to reconsider draft legislation.; He shall publish the laws after their promulgation or under the provisions of Article 58;

6. He shall submit to the Assembly a draft annual budget and the accounts for the preceding financial year, as provided in Articles 59, 60 and 64.

7. He shall have access to and the right of addressing the Assembly. He may be represented in the Assembly and its Committees by the Secretaries of Executive Departments.

8. He shall issue the regulations required to implement the laws.

9. He shall issue orders as provided in Article 77.

10. He may temporarily limit certain provisions of the Constitution as provided in Article 78.

11. He shall take the necessary measures for the suppression of brigandage, as provided in Article 79.

12. Official documents issued by the Chief Executive must be counter-signed by the Secretaries of the Executive Departments concerned.

*Article 77*

**Power of the Chief Executive to issue orders when the Assembly is not in session**

1. In the interval between sessions of the Assembly, the Chief Executive shall have authority to issue, when necessary, orders governing any matter within the jurisdiction of the Government of Eritrea except matters dealt with in Chapter IV of Part I of the Constitution, provided that such orders are compatible with the Constitution and the laws in force.

2. Such orders shall be submitted to the Assembly which must approve or repeal them within a period of two months from the opening of the session following their promulgation.

3. Failing a decision by the Assembly within the above-mentioned period, orders issued by the Chief Executive shall be deemed to be confirmed.

*Article 78*

**Limitation in time of emergency of certain constitutional provisions**

1. In the event of a serious emergency which endangers public order and security, the Assembly may, on the proposal of the Chief Executive, adopt a law authorizing him to impose, under the conditions provided for in Article 34, temporary limitations on the rights set forth in Chapter IV of Part I of this Constitution.

2. The authorization thus given by law shall be valid for a maximum period of two months. If necessary, it may be renewed under the same conditions.

3. During the interval between sessions, the Chief Executive may, if it is urgently necessary, issue an order prescribing the measures referred to in paragraph 1.

In such cases, a special session of the Assembly shall be convened, as soon as possible and, at the latest, within twenty days following the promulgation of the order, to adopt a law approving, amending

or repealing the said order.

*Article 79*

**Suppression of brigandage**

1. If public order and the security of persons and property in Eritrea are threatened by organized brigandage, the Chief Executive shall, after making a proclamation to the people, adopt the exceptional measures necessary to suppress such brigandage.

2. The Chief Executive shall inform the Assembly of the measures he has taken.

## CHAPTER III. THE ADMINISTRATION

*Article 80*

**Conditions of appointment of officials**

Officials shall be chosen for their ability and character; considerations of race, sex, religion or political opinion shall not influence the choice either to their advantage or to their disadvantage.

*Article 81*

**Status of officials**

1. The general status of administrative officials shall be fixed by law.

2. The special status of the various categories of administrative officials shall be fixed by regulations.

*Article 82*

**Civil Service Commission**

1. A Civil Servicé Commission, under the chairmanship of the Chief Executive or his representative, shall be created.

2. This Commission shall be responsible for the appointment, promotion, transfer and discharge of officials, and for taking disciplinary action against them.

3. The composition of this Commission, the procedure for the appointment of its members, and the conditions under which it will function will be determined by law.

*Article 83*

**Local communities**

1. The Constitution recognizes the existence of local communities.

2. Municipalities shall be accorded the management of their own affairs.

3. Officials responsible for the administration of viallge and tribal communities shall be selected from persons of those local communities.

4. The conditions for the application of the preceding provisions may be determined by law.

## PART IV. THE ADVISORY COUNCIL OF ERITREA

*Article 84*

**Advisory Council of Eritrea**

1. An Advisory Council of Eritrea is hereby established.

2. The function of the Council shall be to assist the Chief Executive and the Assembly, with a view to achieving economic and social progress in Eritrea. To this end it may:

(a) Draw up plans for the development of the country's resources and for the improvement of public health and hygiene;

(b) Put forward proposals concerning finance and the budget and the organization of the administration and the public services;

(c) Give advice on draft laws submitted to the Assembly;

(d) On the request of the Chief Executive or of the Assembly, prepare drafts of laws, regulations or orders.

3. The composition and organization of the Council shall be fixed by law.

## PART V. THE JUDICIARY

## SOLE CHAPTER

*Article 85*

**Judicial power**

Judicial power shall be exercised by a Supreme Court and by other courts which will apply the various systems of law in force in Eritrea. The organization of these courts shall be established by law.

*Article 86*

**Qualifications required of judges**

1. Judges shall be chosen from persons of the highest moral reputation and known to be well versed in the customs and legislation peculiar to the various systems of law which they are required to apply.

**Oath**

2. Before taking up office, judges shall, according to their faith and their customary practice, take the following oath:

"I swear before Almighty God" (or an invocation conforming to the faith and the customary practice of the judge concerned) "to be a faithful guardian of the law and to administer it impartially and independently in order to ensure that justice shall reign supreme in Eritrea"

**Independence of the judiciary**

3. The Judiciary shall be independent and must be free from all political influence. The Assembly and the Executive shall not give orders or injunctions to the judges, nor shall they bring any pressure to bear on them.

**Status of judges**

4. The status of judges shall be established by law.

*Article 87*

**Appointment of judges**

1. Judges shall be appointed by the Chief Executive on the recom-

mendation of the President of the Assembly who shall be supplied with a list of candidates by a Committee composed of the President of the Supreme Court and two judges chosen by the members of the Suprement Court and of the court or courts immediately inferior thereto.

2. The President of the Assembly shall recommend to the Chief Executive two candidates for each appointment.

3. The list of candidates drawn up by the committee provided for in paragraph 1 must include at least three names for each appointment.

*Article 88*

**Responsibility of judges**

The Supreme Court provided for in Article 85 shall have jurisdiction in respect of criminal or disciplinary responsibility of judges for acts in connexion with the discharge of their duties.

*Article 89*

**Composition of the Supreme Court**

1. The Supreme Court shall consist of not less than three and not more than seven judges. On the proposal of the Court, the number of judges may be decreased or increased by law.

2. Judges shall be appointed for a period of seven years, which period may be renewed.

*Article 90*

**Jurisdiction of the Supreme Court**

The Supreme Court shall have jurisdiction in the following matters:

(1) As a court of last resort with respect to appeals from final judgments on points of law, and also to the extent provided by law with respect to appeals both on question of law and fact.

(2) Conflicts of jurisdiction between courts.

In the event of a question involving conflicting jurisdiction, proceedings shall be suspended and the issue shall be presented to the Supreme Court, which shall determine the competent jurisdiction.

(3) Disputies concerning the constitutionaliy of laws and orders.

If the constitutionality of a law or order is challenged before a Court, proceedings shall be suspended and the issue shall be presented to the Supreme Court, which shall decide whether such act is constitutional.

(4) Actions based on administrative acts brought against the Government of Eritrea or other public bodies unless courts have been established by law to try such cases.

(5) Criminal and disciplinary responsibility of judges as provided in Article 88.

(6) Responsibility of the Chief Executive as provided in Article 88.

## PART VI. AMENDMENT OF THE CONSTITUTION

### SOLE CHAPTER

*Article 91*

**Compliance with the Federal Act and the principles of democratic government**

1. The Assembly may not, by means of an amendment, introduce into the Constitution any provision which would not be in conformity with the Federal Act.

2. Article 16 of the Constitution, by the terms of which the Constitution of Eritrea is based on the principles of democratic government, shall not be amended.

*Article 92*

**Amendments to the Constitution**

1. Any amendment to the Constitution must be submitted in writing either by the Chief Executive or by a number of members of the Assembly equal to one quarter of the actual number of members.

2. A period of twenty days must elapse between the submission of an amendment and the opening of the Assembly's discussion tbereon.

*Article 93*

**Conditions governing the adoption of amendments**

1. If an amendment is approved by a majority of three quarters of the members of the Assembly in office, the amendment shall be declared adopted.

2. If an amendment is approved by two successive legislatures by a majority of two thirds of the members present and voting or by a majority of the members in office, the amendment shall be declared adopted.

**Entry into effect of amendments**

3. Any amendments to the Constitution adopted by the Assembly according to the provisions of the foregoing paragraphs will enter into effect after ratification by the Emperor, Sovereign of the Federation.

## PART VII. TRANSITIONAL PROVISIONS

*Article 94*

**Entry into force of the Constitution**

1. This Constitution shall enter into effect following ratification of the Federal Act by the Emperor of Ethiopia, and following approval by the United Nations Commissioner, adoption by the Eritrean Assembly and ratification by the Emperor of Ethiopia of the Eritrean Constitution.

2. The Administering Authority shall continue to conduct the affairs of Eritrea until the transfer of power of the Government of Eritrea has taken place.

*Article 95*

**Laws giving effect to the Constitution**

1. Any laws giving effect to the present Constitution, adopted by the Eritrean Assembly convened by the Administering Authority, shall enter into effect simultaneously with the Constitution.

2. Such laws shall conform strictly to the principles and provisions of the Constitution.

*Article 96*

**Legislation remaining in force when the Constitution comes into effect**

1. Laws and regulations which were in force on 1 April 1941, and have not since been repealed by the Administering Authority and the laws and regulations enacted by that Authroity, shall remain in force so long as they have not been repealed and to the extent that they have not been amended.

2. In the event of conflict between such laws and regulations and this Constitution, the Constitution shall prevail in accordance with Article 90 (3).

*Article 97*

**Respect for obligations contracted on behalf of Eritrea**

1. Obligations of any kind regularly contracted by the authorities administering Eritrea up to the date on which the Constitution enters into force shall remain valid for the Government of Eritrea and must be respected provided that such obligations relate to matters within the jurisdiction of Eritrea.

2. As from the date of the entry into force of the Constitution any undertaking regularly concluded by the Executive Committee established by the Administering Authority before the date of the entry into force of the Constitution shall remain valid and must be respected.

3. The provisions contained in paragraph 1 shall not apply to obligations terminated by the Peace Treaty with Italy of 10 February 1947 or by the Resolution adopted by the United Nations General Assembly on 29 January 1952.

*Article 98*

**Retention of officials in office**

Administrative officials and judicial officials whether Federal nationals or not, holding office when the Constitution enters into force, shall continue in office. They may be dismissed only on three months' notice.

*Article 99*

**Term of the first Assembly**

The Assembly responsible for adopting the Constitution shall excercise the powers of the Assembly as provided in the Constitution for a period of four years after the Constitution enters into force.