

**Section 19**  
**Transport and Communication**

**Proclamation No. 53/1994**

**A Proclamation to Provide for the Establishment of an  
Eritrean Information System Agency**

**WHEREAS** information technology is key to economic development, to enhancing international competitiveness and cooperation, and to ensuring efficient and effective administration of government and business;

**WHEREAS** information and the enabling technologies are particularly important for decentralization, delegation of authority, rationalization and full accountability;

**WHEREAS** the Government of Eritrea recognizes the importance of information technology in meeting broader government objectives and priorities;

**WHEREAS** already, major information investments and acquisitions have been made to support such initiatives as the Referendum and Census, and other localized systems have been acquired by various ministries and the public enterprise sector;

**WHEREAS** experience has shown that information technology, if not managed prudently, can be excessively costly, inefficient and generate negative returns on investment;

**WHEREAS** as with any important resource or investment, information technology must be “managed” in order to ensure that it generates the maximum possible benefits at the least possible cost; and

**WHEREAS** it is necessary to establish the organizational strategy to ensure self-sufficiency to deliver, support and maintain information systems and technology initiatives throughout the Government and to define the strategic priorities for information technology in the Government context.

**NOW, THEREFORE**, this Proclamation is issued to provide for the development and management of information technology within the Government and public enterprise sector and for other ancillary purposes stated herein.

**Article 1. Issuing Authority**

This Proclamation is issued by the President of the State of Eritrea.

## **Article 2. Short Title**

This Proclamation may be cited as “the Eritrean Information systems Agency Establishment Proclamation NO. 53 of 1994.

## **Article 3. Definitions**

In this Proclamation, unless the context otherwise requires:

- 1) “Client” shall mean a ministry, the public and private sectors or the general public any of which or who acquires or receives services from the agency established by this Proclamation.
- 2) “Client Services” shall mean the delivery of automated system solutions to client organizations; advisory and consulting services on specialized business analysis; providing ancillary technical analysis advisory and consulting service; and implementing/maintenance of data communications network.
- 3) “Information Technology” shall mean any computer hardware, software and telecommunications technologies that permit the communications or flow of information (data, voice, text and image). It also includes specialized areas, such as office automation, automated publishing, computer assisted design/ drafting and manufacturing and other specialized software.
- 4) “Managed Facilities” shall include such as information resource center, national training center, computer repair and maintenance workshop, and computer and network center.
- 5) “Management of Information Technology” shall mean policies, procedures, standards and practices. The term shall also include the human and organizational resources required to support information technology implementation and operation, plus supporting administrative procedures and practices.
- 6) “Ministry” shall include any authority, commission, office and any other agency or institution of the State of Eritrea.
- 7) A word importing the masculine gender shall include the feminine as well.

## **Article 4. Repeal**

All previous proclamations, decrees, orders, legal notices or directives concerning matters provided for in this Proclamation are hereby repealed and replaced by this Proclamation.

## **Article 5. Establishment**

- 1) There is hereby established an autonomous entity of the State of Eritrea to be known as the “Eritrean Information Systems Agency” (hereinafter “EISA”) with the objectives, powers and duties stated herein. EISA shall have juridical personality.
- 2) The Office of the President shall be the supervising authority of EISA.

## **Article 6. Objectives**

The objectives of EISA shall be to:

### 1) In the Area of Policy and Coordination:

Develop, advise, implement, coordinate and promulgate government information technology strategies, standards, policies and guidelines, and in particular to:

- a) develop and promulgate a set of standards and supporting guidelines regarding government and public enterprise sector acquisition and maintenance of computers;
- b) develop an appropriate set of policies and management practices supporting more effective and efficient application and exploitation of information technology within the Government and the public enterprise sector;
- c) develop and implement technical training programmes within the Government and public enterprise sectors, as well as develop programmes on improving and encouraging training delivery capacity within the private sector; and
- d) support other government policies and priorities in the area of information technology, such as increasing computer accessibility, conversion to national script; regionalisation; private sector industrial development; research and development; the development of high priority government and public enterprise sector management information systems (MIS); and general manpower development; and
- e) give direction to private sector training operations in terms of curriculum and course content.

### 2) In the Area of Client Services:

Provide a range of information technology services and products to clients on a reimbursable basis, and in particular to:

- a) Develop programmes and mechanisms to ensure acceptable quality in the delivery of its services and products, and to ensure that there is an acceptable degree of client satisfaction;
- b) Establish internal EISA human resources training and education of staff in order to ensure that the skills and education of staff in order to ensure that the skills and educational requirements are commensurate with the client demands for services; and
- c) Implement internal technical resource bases and associated managed facilities in order that current and anticipated client demands are met in a cost effective manner.

## **Article 7. Powers and duties of the agency**

- 1) EISA shall exercise all powers necessary for the attainment of its objectives.
- 2) Without limiting the generality of the foregoing, EISA shall have the following specific powers and duties to:
  - a) establish and promulgate strategic information technology priorities for the Government and the public enterprise sector;
  - b) develop and put in place an appropriate management framework and supporting management practices for the Government and the public enterprise sector;
  - c) provide client services in support of government and public enterprise sectors;
  - d) provide managed facilities;
  - e) promote local manufacture/assembly plant for computer equipment and other facilities;
  - f) develop a training plan and courses for government and public enterprises personnel and deliver training courses to government and public enterprise employees as well as to private individuals;
  - g) develop standards for curricula and course guidelines for private sector training organizations;
  - h) charge and receive payment for the services it renders or for the products it sells;
  - i) sue and be sued;
  - j) own or dispose property and enter into agreement(s) in and outside of Eritrea in fulfilment of its objectives;
  - k) collect, prepare and disseminate information;
  - l) issue and implement rules, directives and procedure consistent with this Proclamation; and
  - m) discharge such other duties as are conducive for the attainment of its objectives.

## **Article 8. Management of EISA**

The management of EISA shall comprise of the following:

- 1) Information Technology Policy Advisory Committee:
  - a) There shall be an information Technology Policy Advisory Committee (hereinafter "ITPA") in the Office of the President.
  - b) ITPAC shall advise the President on all strategy and policy matters pertaining to information technology requiring the President's decision or approval under this Proclamation.
  - c) ITPAC shall be composed of five members, one representing the:
    - 1) Office of the President chairman;
    - 2) Ministry of Finance and Development member;
    - 3) Ministry of Trade, Industry and Tourism, member;
    - 4) Minister of Education, member; and

5) Central Personnel Administration, member

2) Director:

- a) EISA shall have a Director who shall be appointed by the President of the State of Eritrea. The director shall be responsible and accountable to the Office of the President.
- b) The Director shall be the chief executive officer of EISA and shall, subject to the general direction of the President, be responsible for the proper cooperation and administration of EISA.
- c) Without limiting the generality of the foregoing, the Director shall:
  - 1) Be accountable for the general direction of information technology policy and common services in the Government and shall ensure the provision of responsive data, information and data communications facilities, services and support to government and, where appropriate, public enterprise and the private sectors.
  - 2) Function, for the Government and public enterprise sector, as the central authority for all technical decisions and standards in the field of information technology.
  - 3) Coordinate the development of computer systems and data banks, networks and data communication linkages throughout government, and ensure that government and public enterprises personnel are well educated in the use of this infrastructure.
  - 4) Advise and give recommendations to the office of the President on national and government systems architectures, hardware, software and data communications technology.
  - 5) Direct the development of policies, procedures and best management practices on information management accountability; planning and budgeting; information management; procurement and acquisition; training; systems development methodologies; architectures and standards; privacy and accessibility of information; security and audit.
  - 6) Direct the development of overall government long range systems plans, annual plans and budgets covering the use of information technology.
  - 7) Ensure the development and maintenance of inventories of computer hardware and software components; and ensure the provision of computer repair, maintenance, supply and service support to the government's technology resources.
  - 8) Foster links with other, similar organizations internationally and with the donor community for the purposes of sharing experiences, cooperating and developing interchange mechanisms.
  - 9) Coordinate all information technology procurement and acquisition within the Government.

- 10) Oversee the development and application of policies and procedures for the education and training of government personnel in information technology, in coordination with the Ministry of Education and Central Personnel administration.
- 11) Direct the development and implementation of national information technology training programmes geared to skills and manpower development in a range of information technology professional and technical areas.
- 12) Ensure the availability of a national training center for the purposes of implementing the government's training policies and plans.
- 13) Provide guidance and guidelines to private sector information technology training institutions to ensure compatibility with government and national training strategies and skills development policies and priorities.
- 14) Ensure the availability of a central Information Resources Center including technical reference and documentation, library, special purpose devices and facilities, and end-user help facilities.
- 15) Advise the Office of the President on strategies and policies geared to fostering the development of a nationally established Eritrean information technology industrial capability (products, services, support), through coordination with the Ministry of Trade, Industry and Tourism.
- 16) Direct the development and delivery of a range of specialized systems technical and consulting services to government and non-government users in terms of meeting their information and systems requirements.
- 17) Direct the provision of information and decision support services directly to the Office of the President and the State Council and through coordination with other government ministries.
- 18) Direct the management of a central network and data processing facility, and provide data processing service (e.g service bureau) to government and non-government organizations.
- 19) On behalf of the Government, manage the development of major applications systems and special information technology projects.
- 20) Issue rules, directives and procedures after their approval by the President.
- 21) Direct the development and implementation of all internal management practices and systems required to support the EISA and ensure that these conform to best business-like practices.

- 22) Communicate on a regular and periodic basis to all government ministries and public enterprises general information on information technology issues, updated, progress and other matters of common interest.
- 23) In line with government regulation, employ, administer, promote, transfer and take administrative actions on the staff of EISA; and, with the approval of the President, constitute such number of committees as are essential for the attainment of EISA's objectives.
- 24) Organize, direct and control EISA's staff and exert maximum effort to up-grade their ability in performing their jobs.
- 25) Prepare the work programme and annual budget and submit the same for approval to the Office of the President in case the annual budget includes a request of government subsidy, submit the request to the Ministry of Finance and Development for normal budgetary approval process; secure their approval and follow up their implementation.
- 26) Attend international conferences, symposia, workshops and exhibits as required from time to time, including carrying out study tours.
- 27) Represent EISA before any court or any other body and perform other duties as directed by the Office of the President.
- 28) On behalf of EISA, enter into agreement (s) consistent with the power conferred upon or the duties entrusted to her/him by this Proclamation.
  - d) The Director may delegate part of his powers and duties to the employees or committees of EISA, wherever he deems it necessary for the efficient management of EISA.

#### 1. Staff

EISA shall have such staff as are necessary for the attainment of its objectives.

### **Article 9. Fiscal Provisions**

#### 1) Source of Revenue

EISA shall have the following sources of revenue;

- a. proceeds obtained for services it delivers and the products it sells;
- b. government subsidies; and
- c. grants or other forms of assistance.

#### 2) Fiscal Year

The fiscal year of the Government shall be the fiscal year of EISA.

#### 3) Books of Account

EISA shall keep accurate books of accounts and other financial documents.

4) Auditors

The books of accounts and all financial matters of EISA shall be audited at least once a year by the Auditor-General or by any other auditor appointed by him.

**Article 10. Transfer of property:**

All properties herein before under the control of or use by the Government institution, known as the Computer Centre, are hereby transferred to and vested in EISA to hold and use for the attainment of the objectives stated herein.

**Article 11. Duration:**

EISA is established for an indefinite period of time.

**Article 12. Effective Date**

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara 2 March, 1994.

**Government of Eritrea**

## PROCLAMATION NO 77/1995

### A PROCLAMTION TO REGULATE THE REGISTRATION OF ERITREAN SHIPS

**WHEREAS**, Eritrea is now a sovereign state and in full control of its Maritime Transport sector and it has become imperative that a modern maritime proclamation, governing and regulating matters relating to the registration of ships be adopted:

**WHEREAS**, Eritrea has entered a new era of peace, stability and economic prosperity:

**WHEREAS**, Eritrea has adopted an open, free market-led economic policy:

**WHEREAS**, Maritime transport plays an important role in the development of the state, and it is essential to improve and develop this mode of transport so as to provide a greater and more efficient transport service:

**WHEREAS**, it is essential to control and regulate vessels and maritime transport:

**NOW, THEREFORE**, the following proclamation for the registration of ships hereby promulgated:

#### **1. Short Title**

This Proclamation may be cited as the "Registration of Ships Proclamation No 77/1995."

#### **2. Repeal**

All rules, whether written or customary, previously in force concerning matters provided for in this Proclamation are hereby repealed and replaced by the provisions of this Proclamation.

#### **3. Definitions**

In this Proclamation, unless the context otherwise requires: -

1. "Authority" means the Ports Authority established under Legal Notice No. 16/1994;
2. "Bareboat Charter" means a contract for the lease of a ship for a stipulated period of time, by virtue of which the lessee has complete possession and control of the ship, including the right to appoint the Master and crew for the duration of the lease;
3. "Eritrean Ship" means a vessel registered under this Proclamation; -
4. "Operator" means the owner or bareboat charterer, or any other natural or juridical person to whom the responsibilities of the owner or bareboat charter have been formally assigned;
5. "Owner" or "Shipowner" means, unless clearly indicated otherwise, any natural or juridical person recorded in the register of ships as the owner of a ship;
6. "Registrar" means the officer of the Authority entrusted with the duty of keeping the register of ships;

7. "Register of ships " means a register in which all the information required for registration of a ship and any rights in rem are entered; and
8. "Ship" or "Vessel" means every floating structure destined to navigate in water and shall include any sea going vessel, boat (i.e. fishing, sporting, tourist, pleasure etc.), watercraft or show which is subject to registration under this Proclamation.

#### **4. Qualifications for Owning Eritrean Ships**

1. A ship shall not be deemed to be an Eritrean ship unless owned wholly by persons of the following descriptions, namely:
  - (a) Eritrean subjects;
  - (b) Companies incorporated under, and subject to, the Laws of Eritrea and having their principal seat of business in Eritrea; and/or
  - (c) Foreigners domiciled in Eritrea and having their principal seat of business in Eritrea.

#### **5. Right to Fly the Eritrean Flag**

1. Any ship duly registered under this Proclamation shall have the right to sail under the Eritrean flag as a symbol of its nationality.
2. A ship shall acquire the right to sail under the Eritrean flag from the date she is registered in the ships' register or from the day she is issued with a temporary certificate of registration.
3. Eritrean ships shall not fly the flag of any other State unless the right to fly the Eritrean flag is suspended or cancelled.

#### **6. Duty to Display Flag**

1. The Master of a ship who fails to display its national flag shall be guilty of an offence and punished in accordance with the Transitional Penal Code of Eritrea.
2. A Master or other Officer displaying the Eritrean flag on a ship which is not entitled to do so shall be guilty of an offence and be punished in accordance with the Transitional Penal Code of Eritrea.
3. The Authority may, by regulations or directives, exempt small boats from displaying the Eritrean flag or carrying on board the certificate of nationality.

#### **7. Eritrean Ships in the High Seas**

Ships flying the Eritrean flag shall be under Eritrean sovereignty when they are in the high seas.

#### **8. Right to Engage in Service**

1. A ship shall not engage in service unless registered in the register of ships,
2. Any Ship registered under the provisions of this Proclamation shall obtain a certificate of registry from the Authority.

## **9. Obligation of Eritrean Ships to Register**

1. Every Eritrean ship shall, unless exempted from registry, be registered under this Proclamation.
2. A ship required to be, but not registered under this Proclamation shall not be recognized as an Eritrean ship and be entitled to the rights extended to Eritrean ships.
3. A ship required by this Proclamation to be registered may be detained by the Harbour office until the Master of the ship, if so required, produces the certificate of the registry of the ship.

## **10. Ships Exempted from Registration**

All ships of the Eritrean Navy are exempted from registration under this Proclamation.

## **11. Registrar of Eritrean Ships**

1. The Authority shall appoint a Registrar whose duty shall be to maintain the national register of ships in accordance with this Proclamation.
2. The Registrar shall not be liable for damages or for any loss sustained by any person by reason of any act done or omission committed by him in his capacity as Registrar, unless the same has been caused by his negligent or intentional act.

## **12. Voluntary Registration of Ships under Construction**

1. When the keel has been laid, any ship under construction in Eritrea may, whether for the account of Eritrean or foreign principals, be registered. A separate register book shall be kept for ships under construction. In the register shall be stated the name of the builder, the site where the construction is taking place, the date when the keel was laid, the type of building materials, the means of propulsion and the anticipated gross and net registered tonnage and overall length and the extreme outside breadth of the ship under construction.
2. The builder shall be deemed to be the owner, unless the parties have agreed that the principal shall be the owner of the ship while under construction.
3. The parties may agree that the principal shall also be owner of the building materials on the construction site, which can be identified as intended for the construction of the ship.
4. Such agreements may be registered on the register for ships under construction.
5. When a registered ship under construction is completed, the builder shall report this to the Registrar, who shall register such a fact on the register of the ship under construction.

### **13. Application for Registration**

1. The ship owner shall apply to the Registrar for registration after having acquired a ship not previously registered under this Proclamation.
2. An application for registration of a ship shall be made: -
  - (a) in the case of an individual, by the person requiring to be registered as owner;
  - (b) in the case of two or more persons, by one or more of such persons or by their agent; and
  - (c) in the case of a company, by the manager or any other duly appointed officer of the company.
3. An application for registration shall not be accepted unless made in writing.

### **14. Contents of Application for Registration**

An application for registration shall contain: -

- (1) a statement of qualification to own an Eritrean ship;
- (2) a statement of the time when and the place where the ship was built or, if the time and place of building are unknown, a statement that the applicant does not know the time and place of building; and in addition thereto, in the case of a foreign ship, a statement of her foreign name, or in the case a ship acquired from another owner, a statement giving the name of the ex-owner, his address, the name of the ship, her number, marks, port of registry and the manner in which ownership was transferred;
- (3) a statement of the name of the owner, his domicile, occupation, nationality and other facts describing the owner or in the case of joint ownership, a statement of the names of the joint owners, or in the case of a company, a copy of the memorandum and articles of association of the company under which it operates;
- (4) a declaration that the ship is not registered any where else or that its registration is deleted from the old register, as the case may be.
- (5) a statement that the ship is seaworthy; and
- (6) a statement of the number of shares in the ship to which a person or a company, as the case may be, is entitled to be registered as owner.

### **15. Documents to be Presented before Registration**

1. The following valid documents shall be presented to the Registrar together with the application for registration: -
  - (a) an International Load Line Certificate;
  - (b) a Tonnage Certificate;
  - (c) a Certificate of Radio Telegraph ;
  - (d) an International Oil Pollution Prevention Certificate;
  - (e) a Hull and Machinery Certificate;

- (f) a Certificate of Mortgage;
- (g) a Cargo Ship Safety Equipment certificate;
- (h) a Bill of Sale;
- (i) a Certificate of Build;
- (j) the Permanent address of the owner;
- (k) evidence of the fact that a previous registration, if any, has been legally deleted;
  
- (1) a Cargo ship safety construction certificates;
- (m) a Passenger ship safety certificate; and
- (n) all other documents required by international treaties, irrespective of whether Eritrea is a party thereto or not, as required by the Registrar.

2. The Registrar may exempt any class of ships from all or any of the requirements enumerated in sub-article (1) hereof.

#### **16. Pre-Registration Requirements**

Every ship shall be surveyed and her tonnage ascertained before registration.

#### **17. Marking of Ship**

1. Every Eritrean ship shall, before registry, be marked permanently and conspicuously to the satisfaction of the Registrar, as follows:-
  - (a) her name shall be marked on each of her bows and her name and port of registry shall be marked on her stern, all in Tigrigina, Arabic and Latin characters;
  - (b) her official number and the number denoting her registered tonnage shall be cut in on her main beam; and
  - (c) a scale of feet denoting her draught of water shall be marked on each side of her sternpost in figures, not less than six inches in length, the lower line of such figures to coincide with the draught line denoted thereby.
2. The Registrar may exempt any class of ships from any or all of the requirements enumerated in sub-article (1) hereof.

#### **18. Name of Ship**

1. A ship shall not be described by any name other than that by which she is registered.
2. The name of a ship shall be that proposed by the owner, provided the Registrar shall reject any name that coincides with the name of another ship or is likely to be

confused with that of a registered Eritrean ship, in which case he shall request the owner to submit another name.

3. The name of a registered ship may not be changed except with the written approval of the Registrar. Upon approval being given to change the name, the ship's name shall forthwith be altered in the register book, in the ships' certificate of registration, and on her bows and stem, upon payment of the fee prescribed for such services.
4. The Registrar may not approve a change of name of an Eritrean ship unless he is satisfied that all registered mortgagees thereof have been notified of the proposed change of name and the provisions of sub article (2) hereof have been complied with.

#### **19. Entry of Particulars in the Register**

1. When the requirements for registration are met, the Registrar shall enter in the register: -
  - (a) the name of the ship and her previous name and registry, if any;
  - (b) the official number or identification mark of the ship;
  - (c) the international call-sign of the ship, if assigned;
  - (d) the name of the builders and the place and year of build of the ship;
  - (e) the description of the main technical characteristics of the ship;
  - (f) the name and residence or domicile of each owner and the amount of his share in the ship;
  - (g) the date of deletion or suspension of the previous registration of the ship;
  - (h) the name and residence of the operator ;
  - (i) the name and residence of the bareboat charterer ; and (j) all registrations, recordings and other entries in respect of the ship and rights on the ship, with the dates and all other particulars as contained in the documents submitted to the Registrar.
2. In the case of a ship bareboat chartered-in, the Registrar shall ensure that the right to fly the flag of the former flag state is suspended. The registration shall be effected on production of evidence indicating suspension of previous registration as regards the nationality of the ship under the former flag state and particulars of any registered encumbrances.

**20. Documents to be Retained by Registrar**

The Registrar shall, upon the registration of a ship, retain in his possession the surveyor's certificate, the builders certificate, any bill of sale of the ship previously made, a copy of the condemnation certificate (if any) and all declarations of ownership.

**21. Access to the Registers**

The register shall be open to inspection by the public upon payment of the prescribed fee.

**22. Certificate of Registration**

Upon completion of the registration, the Registrar shall issue a certificate of registration comprising the particulars relating to a ship in the register book.

**23. Effect of Registration**

In addition to the effects of registration mentioned in the Transitional Maritime Code of Eritrea: -

- (1) a registration certificate shall entitle a ship to sail under the Eritrean flag and such ship shall also enjoy all the rights and privileges extended to Eritrean ships; and
- (2) Upon a ship being registered in the register, all prior entries concerning that ship in the register of foreign states shall cease to be recognized by Eritrea.

**24. Use of Certificate**

1. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to retention by reason of any title, lien, charge or interest whatsoever, had or claimed by any owner, mortgagee or other person to, on or in the ship.
2. No person, whether having legitimate interest on the ship or not, who has in his possession or under his control the certificate of registry of a ship, may refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purpose of the lawful navigation of the ship, or to a registrar or other person entitled by the law to require such delivery.
3. No owner or master of a ship may use or attempt to use for her navigation a certificate of registry not legally issued in respect of the ship.

## **25. Provisional Certificate of Registration**

1. A provisional certificate of registration may be granted by the Registrar or by a Consular Officer of Eritrea in lieu of the original certificate when a ship is acquired abroad or the certificate of registration is mislaid, lost, destroyed or otherwise unobtainable. Such certificate shall cease to have effect six months after the issuance thereof, unless renewed by the Registrar.
2. A provisional certificate of registration issued by a Consular Officer shall, within six months, be surrendered in exchange for a permanent certificate of registry.
3. When an Eritrean Consular Officer issues a provisional certificate in respect of any ship under this Article, he shall send forthwith a copy of that certificate to the Registrar.
4. The Registrar may prescribe the conditions under which a provisional certificate may be issued and renewed and the manner in which it may be surrendered in exchange for permanent certificate of registry.

## **26. Duty to Carry a Certificate of Nationality**

1. A ship registered according to the provisions of this Proclamation may not proceed to sea without having on board a certificate of nationality, in which the name of the ship owner shall be indicated and the ship identified and authorized to sail under the Eritrean flag.
2. The Registrar shall, on his own motion, issue a certificate of nationality when a ship is registered under this Proclamation.
3. Any alteration in the facts stated in a certificate of nationality shall be reported to the Registrar, who shall amend the certificate accordingly or issue, in exchange, a new certificate.
4. In any event stated in Article 27 the certificate of nationality shall, if not lost or destroyed, be returned to the Registrar.

## **27. Return of the Snipes Certificate to the Registrar**

1. Where a registered ship is either actually or constructively lost, taken by an enemy, burnt or broken up, or sold to a person not qualified to own an Eritrean ship, the owner of the ship or of a share therein in whose name the ship is registered shall, immediately upon being informed of the event, give notice thereof to the Registrar at the port of registration of the ship or to the Consular Officer, as the case may be, and if available return the certificate to the Registrar or consular officer. The Consular Officer shall immediately pass the information to the Registrar who shall make an entry thereof in the register and the registration of the ship in the register shall be considered cancelled, except for unsatisfied mortgage, liens and other rights in  
rem.

2. Where any owner or master of a ship fails, without reasonable cause, to comply with the requirements of sub-article (1) hereof, he shall be guilty of an offence, and upon conviction, pay a fine not exceeding 10,000 Birr.

## **28. Bare Boat Charter**

1. Subject to the provisions of Article 19 hereof, the State of Eritrea may register and grant the right to fly its flag to a ship bareboat chartered-in by a charterer in Eritrea for the period of the charter.
2. Any ship bareboat chartered-in and flying the Eritrean flag shall be subject to Eritrean jurisdiction and control.
3. Where a bareboat chartered-in ship is registered the Registrar shall ensure that the former flag State is notified of the deletion of the registration of the bareboat chartered ship.

## **29. Port of Registry**

The port at which an Eritrean ship is registered shall be deemed to be her port of registry and the port to which she belongs.

## **30. Registration of Alterations and Registration Anew**

1. Any alteration relating to the tonnage or description of a registered ship shall immediately be notified to the Registrar at the port where the ship is registered or any port within Eritrea where the ship calls after the alteration.
2. In no event may the notification exceed thirty days after the completion of the alteration or after the arrival of the ship at a national port.
3. For the purpose of registry of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar and the Registrar may, in his discretion, either endorse and sign on the existing certificate a memorandum of the alteration or retain the certificate of registry and issue a new certificate of registry containing a description of the ship as altered.
4. Where any Registrar, not being the Registrar at the ship's port of registry, endorses an existing certificate or issues a new certificate under this Article, he shall forthwith send a report of the particulars of the case to the Registrar at the ship's port of registry, containing a statement of that contained in the endorsement certificate and accompanied where a new certificate has been issued, by the former certificate of registry.
5. The particulars of the alterations so made, and the fact of the issuance of a new certificate, shall be entered in the register of ships by the Registrar at the ship's port of registry.

6. Where any Registrar, not being the Registrar at the ship's port of registry, on an application as to an alteration in a ship directs the ship to be registered anew, he shall either issue a provisional certificate, describing the ship as altered, or provisionally endorse the particulars of the ship on the existing certificate.
7. The registry issuing a provisional certificate or provisionally endorsing a certificate under this Article shall include in the certificate or endorsement a statement that the same is made provisionally.
8. Where the ownership of an Eritrean ship is changed, the Registrar of the port at which the ship is registered may, on the application of the owner of a ship, register the ship anew.
9. In the case above mentioned in sub-article (8) hereof, the Registrar shall proceed as in the case of first registry, and on delivery to him of the existing certificate of registry and on the other requisites to registry being duly complied with, he shall make such change of ownership be accomplished by means of endorsement of the existing

ship's document.

10. When a ship is registered anew the former registration of the ship shall be cancelled, except insofar as that registration relates to any unsatisfied mortgage entered thereon, provided that the names of all persons appearing by the former registration to be interested as owners or mortgagees in the ship registered anew shall be entered on the new registration and the registration anew does not in any way adversely affect the rights of any of those persons.

11. Where the registration of an Eritrean ship is cancelled because such a ship has been wrecked or abandoned, or for any reason other than capture by the enemy, the ship shall not be registered anew unless and until she has been surveyed and certified to be seaworthy at the expense of the applicant for registry.

### **31. Transfer of a Ship or Shares**

1. Ownership of a registered ship or a share therein (when disposed of to a person qualified to own an Eritrean ship) shall be transferred by a bill of sale or any other lawful means.
2. The document evidencing the transfer of ownership of a registered ship or a share therein shall be produced to the Registrar at the port of registry of the ship.

### **32. Inspection of Documents**

A duly authorized officer of the Authority may inspect the register or documents on board a ship to ascertain the veracity of the same.

### **33. Suspension of Certificate**

The Registrar may suspend a certificate where: -

1. the owner contravenes the provision this Proclamation, or any action taken there under, or conditions laid down in the certificate; or
2. the owner contravenes ships' safety and environmental protection conventions and laws.

### **34. Fees**

Payment of registration fees for the issuing of certificate of registry, fees for securing change of name, annual payment and other charges shall be made by the shipowner in accordance with the tariff book of the Authority or as may be prescribed by the Registrar.

### **35. Penalty**

1. The owner and master of an Eritrean ship shall be responsible for maintaining the prescribed distinguishing markings in proper condition and shall be guilty of an offence

if they are obliterated, concealed or covered, or if false marks are carried or unauthorized alterations made.

2. Avoiding registration is an offence punishable under the Transitional Penal Code of Eritrea.

**36. Power to Issue Regulations**

The Authority may issue regulations or directives for the proper implementation of the provisions of this Proclamation.

**37. Non Compliance with International Conventions**

The Authority may cancel a ship's certificate of registry where the applicable requirements of International conventions are not observed.

**38. Transitory Provision**

All ships registered in the old register shall be registered in accordance with the provisions of this Proclamation within six months from the entry in to force of this Proclamation.

**39. Effective Date**

This Proclamation shall enter into force on the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 11th day of October 1995.

Government of Eritrea

## LEGAL NOTICE NO. 37/1998

# REGULATIONS ON TELECOMMUNICATIONS EQUIPMENT SUPPLIERS AND INSTALLERS

### Part One General Provisions

#### 1. Short Title

These Regulations may be cited as “the Regulations on Telecommunications Equipment Suppliers and Installers – Legal Notice No 37/1998”

#### 2. Definitions

- (1) In these Regulations, unless the context otherwise requires, the definitions set forth in Article 2 of the Communications Proclamation (Proclamation No 102/1998) shall apply.
- (2) In these Regulations “Proclamation” shall mean the Communications Proclamation (Proclamation No. 102/1998).

#### 3. Obligation to Obtain Permit

- (1) A person desiring to import, manufacture, sell or otherwise transfer, install or service equipment covered by these Regulations, must obtain a permit pursuant to Article 23 of the Proclamation and to these Regulations. The permit shall contain a certificate of grade and a certificate of qualification.
- (2) The right of individual persons to transfer single items of privately-owned equipment is not covered by these Regulations. Private individuals may also import single items of telecommunications equipment which are approved and labeled in accordance with regulations in force.

#### 4. Certificate of Grade-General

- (1) A certificate of grade may be issued to:
  - (a) a main supplier according to grades as stipulated in Article 8 hereof;
  - (b) a retail supplier according to grades as stipulated in Article 15 hereof; and
  - (c) an installer according to grades as stipulated in Article 19 hereof.
- (2) A person desiring to obtain a certificate of grade must satisfy the Department that he has at his disposal adequate financial resources and adequate business premises commensurate with the volume of activity of the applicable grade. The Department may stipulate general requirements with regard to such resources and premises.

- (3) Telecommunications equipment shall be categorized as follows:

Grade A.

Equipment for switched networks, PABX (Private Automatic Branch Exchanges) and other equipment with equivalent functions. Grade A also includes B, C and D.

Grade B.

Telecommunications user equipment less complex than grade A equipment, but normally requiring a certain amount of installation work before it can be used. Grade B also includes grades C and D.

Grade C.

Line materials, cables, leads, equipment for line termination, plugs/sockets and other installation material. Grade C also includes grade D.

Grade D.

Simple telecommunications user equipment that normally may be used simply by plugging into the public telephone network.

Grade X.

Radio equipment designed for use in public air-mobile and maritime mobile radio services and land mobile radio communications networks, broadcasting transmitters and converters and satellite earth stations. Grade X also includes grades Y and Z.

Grade Y.

Radio equipment designed for private (closed) paging networks, maritime VHF and radio navigation equipment for use in leisure craft, plus amateur radio, private radio (CB) and other similar equipment that is not a public radio services. Grade Y also includes grade Z.

Grade Z.

Radio equipment designed for use in public automatic land mobile networks (mobile telephones), remote control of cranes, winches, model aircraft, model boats, door-openers, alarms, toys... etc, cordless telephones, receivers in public paging services... etc.

## **5. Certificate of Qualification-General**

- (1) Certificates of qualification may be issued to:
- (a) main suppliers according to qualifications as stipulated in Article 9 hereof;
  - (b) retail suppliers according to qualifications as stipulated in Article 16 hereof; and
  - (c) installers according to qualifications as stipulated in Article 20 hereof.

- (2) Qualifications shall be categorized as follows;  
Qualification of Category 1:
- (a) technical knowledge at a minimum corresponding to that required for passing the examination of 2-3 years engineering college education, majoring in electronics; and
  - (b) two years' relevant practical experience. With regard to INX and INY grade this experience must be in the field of radio installation.

Qualification of category II:

- (a) technical knowledge at a minimum corresponding to that required for passing the examination of 1-2 years technical school, majoring in electronics; and
- (b) two years' relevant practical experience. With regard to INX and INY grade this experience must be in the field of radio installation.

Qualification of category III:

An automobile electrician or person with equivalent technical competence provided that:

- (a) he may document that he has taken the requisite training provided by a main supplier or other, that the training has been approved by the Department, and that the installer has requisite instrumentation for measuring of current supply and antennae, or
- (b) a retail supplier according to agreement with the installer performs requisite measurements and otherwise checks that the installation has been done in conformity with the instructions for such installation. The retail supplier must have requisite instrumentation for measuring of current supply and antennae.

**Exemptions**

- (1) The Department may exempt a person from education, examination and/or experience requirements provided the Department is satisfied that the applicant has the minimum relevant theoretical knowledge and practical experience required.
- (2) The Department may in justified cases make an exemption with regard to other provisions of these Regulations

**Part Two  
Main Suppliers**

**7. Scope**

A person holding a permit as a main supplier may:

- (a) import, manufacture, sell or otherwise transfer to retail suppliers; and

- (b) perform activities as retail supplier with regard to equipment as specified in his permit.

**8. Certificate of Grade-Main Suppliers**

Certificates of grade issued to main suppliers shall be categorized as follows:

- (a) Grade MSA: Main supplier of grade A equipment (including grades B, C and D);
- (b) Grade MSB: Main supplier of grade B equipment (including grades C and D);
- (c) Grade MSC: Main supplier of grade C equipment (including grade D);
- (d) Grade MSD: Main supplier of grade D equipment;
- (e) Grade MSX: Main supplier of grade X equipment (including grades Y and Z);
- (f) Grade MSY: Main supplier of grade Y equipment (including grade Z);
- (g) Grade MSZ: Main supplier of grade Z equipment;

**9. Certificate of Qualification – Main Suppliers**

A person desiring to obtain a certificate of qualification as a main supplier must satisfy the Department that he has at his disposal:

- (a) a permanent full time qualified employee possessing qualification of category I. The qualified employee shall ensure that the main supplier's obligations are fulfilled. The qualified employee may only be employed by one person at any given period of time; and
- (b) personnel in his everyday employ who have thorough theoretical and practical knowledge of the equipment for which the firm is or wishes to be a main supplier.

**10. Responsibilities of Main Supplier**

- (1) The main supplier may only sell to retailers with the requisite permit as retail supplier for the applicable grade. When the main supplier performs activities as a retail supplier, the provisions of Part Three apply to the main supplier as well.
- (2) The main supplier shall monitor his retailers including the marketing and service with regard to the main supplier's products.
- (3) The main supplier shall ensure that equipment sold or transferred:
  - (a) is type approved in accordance with regulations issued by the Department;
  - (b) has the required labeling before he sells it or distributes it for sale; and
  - (c) is mechanically and electrically of adequate technical quality with regard to grade C.

**11. Requirements for Main Supplier -Technical Documentation**

- (1) The main supplier shall have technical documentation for each type of equipment he sells.  
This technical documentation shall, at a minimum, include

- (a) technical specifications for the equipment including specifications with regard to type approval regulations laying down requirements;
- (b) detailed functional description;
- (c) user's manual in English; and
- (d) installation guide in English.

The Department may determine that certain manuals and/or guides shall be in an Eritrean language.

- (2) For grade A, B and X equipment technical documentation shall normally accompany each single item of equipment. For grades D, Y and Z a user's manual shall accompany the equipment, and technical documentation when required for correct installation and use of the equipment. For grade C equipment technical documentation shall be available to the extent required for correct installation and use of the equipment.

## **12. Requirements for Main Supplier – Service Documentation**

- (1) The main supplier shall have service documentation for each type of equipment he sells. The service documentation shall at a minimum include:
  - (a) connection diagram;
  - (b) software printout with module description and flowchart for equipment where software is normally available for alterations in connection with service to the equipment, or where the software must be amended to fit the specific use of the equipment. This shall include description of installation-dependent configuration set-up for the software;
  - (c) list of all components with designation or specification;
  - (d) service guide for installation, maintenance, calibration and control measurement in order to monitor whether the equipment adheres to the given specifications and requirements in technical regulations regarding type approval of the equipment in question; and
  - (e) recommended minimum test equipment (test rigs, test cables ... etc) to perform:
    - (i) service on the cards/module level;
    - (ii) full service on the component level;
    - (iii) calibration and control measurement; and
    - (iv) measurements on installation and commissioning.
- (2) For measurement instruments, the least that must be indicated are minimum requirements for measurement area and precision, requisite measurement functions and type designation of recommended equipment.
- (3) Service documentation requirements with regard to grade C only apply where it is assumed that service will be done on the equipment.

## **13. Requirements for Main Supplier –Service of Equipment**

Unless defective equipment is replaced with equivalent equipment, the main supplier shall be responsible for performing the following service functions with regard to the equipment he sells:

- (a) systematic fault location to find the errors in software or cards, modules or other replaceable units or individual components, and repair of the equipment by replacing of the faulty part;
- (b) calibration for control that given specifications are met, alternatively, requisite adjustments in accordance with the manufacturer's calibration manual;
- (c) control measurements to check that the equipment's technical standards are met; and
- (d) installation-related measurements and commissioning of the equipment.

### **Part Three Retail Suppliers**

#### **14. Scope**

A person holding a permit as a retail supplier may:

- (a) resale to other retail suppliers; or
- (b) retail sell or otherwise transfer to consumers equipment as specified in his permit.

#### **15. Certificate of Grade - Retail Suppliers**

Certificates of grade issued to retail suppliers shall be categorized as follows:

- (a) grade RSA: Retail supplier of grade A equipment (including grades B, C and D);
- (b) grade RSB: Retail supplier of grade B equipment (including grades C and D);
- (c) grade RSC: Retail supplier of grade C equipment (including grade D);
- (d) grade RSD: Retail supplier of grade D equipment ;
- (e) grade RSX: Retail supplier of grade X equipment (including grades Y and Z);
- (f) grade RSY: Retail supplier of grade Y equipment (including grade Z);
- (g) grade RSZ: Retail supplier of grade Z equipment.

#### **16. Certificate of Qualification-Retail Suppliers**

A person desiring to obtain a certificate of qualification as a retail supplier must satisfy the Department that he has at his disposal:

- (a) a permanent full time qualified employee possessing qualification of:
  - (i) category I with regard to RSA or RSX certificate of grade; or
  - (ii) category II with regard to RSB or RSY certificate of grade.

The qualified employee shall ensure that the retail supplier's obligations are fulfilled. The qualified employee may only be employed by one person at any given period of time;

- (b) a person in the everyday employ of the retail supplier who shall be familiar with the mode of operation of the equipment sold and be capable of giving guidance in the use and installation of the equipment sold. He shall be obliged to familiarize himself with the rules governing the use of the equipment.

### **17. Responsibilities of Retail Suppliers**

- (1) The retail supplier shall ensure that equipment sold or transferred:
  - (a) is type approved in accordance with regulations issued by the Department;
  - (b) has required labeling before he sells it or distributes it for sale; and
  - (c) is mechanically and electrically of adequate technical quality with regard to grade C.
- (2) As regards radio equipment the retail supplier has responsibilities as follows:
  - (a) equipment must be sold or hired only to persons with permission to own possess the category of equipment in question;
  - (b) the retail supplier must ensure that a user's manual, including where necessary information on correct use of frequencies (permitted frequencies), accompanies all equipment; and
  - (c) the retail supplier shall keep a register with information on the equipment's make, type and serial number plus name and address of those buying or hiring the equipment, with date.

## **Part Four Installers**

### **18. Scope**

- (1) A person holding a permit as an installer may perform installation and service activities with regard to equipment as specified in his permit.
- (2) Permit is not required for installation of grade C and D equipment.

### **19. Certificate of Grade-Installers**

- (1) Certificates of grade issued to installers shall be categorized as follows:
  - (a) grade INA: Installer of grade A equipment (including grade B);
  - (b) grade INB: Installer of grade B equipment;
  - (c) grade INX: Installer of grade X equipment (including grades Y and Z);  
and
  - (d) grade INY: Installer of grade Y equipment (including grade Z).
- (2) An INB-installer may also perform installation of grade A equipment provided that the INB-installer has an agreement in advance with the main or retail supplier or an INA-installer regarding testing, commissioning and service of this equipment.

### **20. Certificate of Qualification-Installers**

- (1) A person desiring to obtain a certificate of qualification as an installer must satisfy the Department that he has at his disposal:  
a permanent full time qualified employee possessing qualification as

follows:

- (i) For INA grade: category I;
- (ii) For INB grade: category II;
- (iii) For INX grade: category I; and
- (iv) For INY grade: category II or III.

The qualified employee shall ensure that the installer's obligations are fulfilled. The qualified employee may only be employed by one person at any given period of time;

- (2) A person in the everyday employ of the installer shall have sufficient qualifications and knowledge of the electrical and functional specifications of the interface with the equipment and systems in question.
- (3) For certain equipment and services, the Department may require that the service personnel have received training in the equipment type concerned.

**21. Responsibilities of Installers**

- (1) The installer shall ensure that equipment:
  - (a) is type approved in accordance with regulations issued by the Department; and
  - (b) has the required labeling before installation or service is performed.
- (2) The installer shall ensure that sufficient technical equipment, tools, regulations and other documentation is available. For fault location in the network the installer shall have the requisite test equipment and shall be capable of performing requisite measurements in order to ascertain whether the fault is within the internal networks or outside it, and assist the telecommunications operator in measuring or testing the public network against the interface.

**22. Specific Requirements for Installation of Radio Equipment**

Unless defective equipment is replaced with equivalent, the installer of the equipment subject to repair or services shall also be capable of:

- (a) checking that the radio equipment's given specifications are met, and if necessary make requisite adjustments in conformity with the manufacturer's instructions;
- (b) making control measurements to ensure that the equipment's technical requirements are met;
- (c) making installation-related measurements and commissioning the equipment; and
- (d) systematic fault location to determine whether the fault is in the card, module or other replaceable unit or single component, and repair of the equipment by replacement of the faulty component. For programmed equipment this shall also apply to fault location and correction in software modules or installation-specific program or equipment parameters.

**23. Service Activity**

- (1) In connection with service to equipment, it is only permitted to modify the equipment so that its electrical/functional qualities are changed in conformity with the manufacturer's or importer's guidelines. For type-approved equipment, it is also required that such modifications be approved by the Department.
- (2) After completion of service or maintenance, the requisite calibrations and/or control measurements shall be performed on the equipment. If the equipment does not satisfy the stated requirements, the provider of the service shall notify the owner or user of said equipment that its use is not permitted or is subject to restrictions.
- (3) When service is performed on equipment intended to be serviced, a service report shall be submitted to the user or owner of the equipment. The service report shall provide the requisite information on what service has been done and with what results. The Department may issue detailed rules for the content of the service report.

**Part Five  
Miscellaneous Provisions**

**24. Permits - Application and Issuance**

- (1) The application for permit, including for certificate of grade and certificate of qualification, shall be submitted on a prescribed application for m and shall be accompanied by requisite documentation, including documentation with regard to ability to meet the requirements for certificate of grade and certificate of qualification.
- (2) The permit applies to a person at one address. Activity performed under another name or at a different address requires a separate permit.
- (3) Changes in personnel or activity, including cessation of activity, that affect the grounds on which the permit was granted, shall be notified to the Department immediately.
- (4) An A, B, C or D certificate of grade may be combined with an X,Y, or Z certificate of grade.

**25. Installation and Servicing Equipment Sold**

The main supplier and retail supplier shall through their own activity or by agreement with an installer, be capable of providing installation and service of equipment sold.

**26. Documentation**

- (1) A main supplier shall retain technical documentation and service documentation for sold telecommunications equipment for at least 5 years after marketing of the equipment in question has ceased.
- (2) A retail supplier shall retain documentation (work sketches ... etc) of the network he is installing for as long a time as the Department may require.
- (3) When special reasons dictate, such as the need to preserve commercial secrets, the Department may waive the technical documentation requirements.

**27. Repeal**

Any provisions of any regulations, order, legal notice or directive concerning matters provided for in these Regulations are hereby repealed and replaced by these Regulations.

**28. Effective Date**

These Regulations shall enter into force on the date of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 22<sup>nd</sup> day on May, 1998  
Saleh Kekia  
Minister of Transport and Communications

**LEGAL NOTICE NO. 43/1998**  
**REGULATIONS ON TELECOMMUNICATIONS**  
**NETWORKS AND SERVICES**

Issuing Authority

These Regulations are issued by the Ministry of Transport and Communications pursuant to Article 8 of the Communications Proclamation (Proclamation No. 102/1998).

**1. Short Title**

These Regulations may be cited as “the Regulations on Telecommunications Networks and Services – Legal Notice No 43/1998”

**2. Definitions**

The terms defined in Article 2 of the Communications Proclamation (Proclamation No. 102/1998) shall apply to the provisions of these Regulations, and in these Regulations, unless the context otherwise requires:

- (a) “co-location” means shared use of property in the form of premises, masts, cable ducts etc., that are used or will be used for siting telecommunications equipment for use in telecommunications activity;
- (b) “interconnection” means exchange of traffic between operators of public telecommunications networks and services that is based on the physical and logical linking of public telecommunications networks and services to enable end-users, regardless of operators, to communicate with any other end-user and to access public telecommunications networks and services provided by others;
- (c) “leased lines” means a telecommunications service consisting of transmission that does not include user-controlled switching;
- (d) “Proclamation” means the Communications Proclamation (Proclamation No. 102/1998);
- (e) “public payphone” means a service providing access to an operator’s public telephony service;
- (f) “public telephony service” means a public telecommunications service consisting of direct conveyance and switching of real-time voice signals across public switching of real-time voice signals across public switched networks (fixed or mobile networks) enabling an end-user using fixed or mobile terminal equipment to communicate with other end-user using fixed or mobile terminal equipment to communicate with other end-users via a network termination point;
- (g) “relevant standards” means national standards or specifications established or approved by the Department, or international standards or recommendations established by the ITU (International

- Telecommunications Union), ISO (International Organisation for Standardisation) or IEC (International Electrotechnical Commission); and
- (h) “special network access” means access to other network termination points and on other terms that the standardized offers usually made.

### **3. Scope**

These Regulations shall apply to:

- a. public telecommunications networks;
- b. public telecommunications services, including leased lines;
- c. private telecommunications networks; and
- d. private telecommunications services.

### **4. Obligation to Obtain Permit**

- (1) A person desiring:
  - (a) to establish and/or operate a public telecommunications network; and/or
  - (b) to provide a public telecommunications service, including leased line; must obtain an operators permit.
- (2) The Department may specify which information the applicant must provide, including a standardized form to be used for the applications. If required by control considerations or important statistical purposes, the Department may make changes in regard to the information required.
- (3) Changes in information given by the applicant shall be notified to the Department as soon as possible.

### **5. Exclusive Rights Activities**

- (1) Exclusive rights activities shall encompass:
  - (a) the establishment and operation of public telecommunications networks;
  - (b) the provision of domestic and international public telephony services, excluding public cellular radio land mobile telephone services; and
  - (c) the provision of leased lines.

The activities specified in this Article do not include the activities specified in Articles 6 and 7 hereof.

- (2) Exclusive rights activities may only be offered by a person holding a permit pursuant to Article 12 of the Proclamation.

## **6. Limited Competition Activities**

- (1) Limited competition activities shall encompass:
  - (a) the provision of public data transmission services, including electronic mail and internet;
  - (b) the provision of public cellular radio land mobile telephone services;
  - (c) the provision of paging services; and
  - (d) the provision of global mobile satellite personal communications (GMSPC).

The activities specified in this Article do not include the activities specified in Article 7 hereof.

- (2) Limited competition activities may only be offered by persons holding a permit pursuant to Article 12 of the Proclamation.
- (3) A person providing the services specified under this Article shall be entitled to establish and operate his own telecommunications network for this purpose and/or utilize lines leased from the operator of the exclusive rights activities.

## **7. Open Competition Activities**

- (1) Open competition activities shall encompass:
  - (a) the provision of value added services, which for the purpose of these Regulations are defined as telecommunications services other than the services stipulated under Article 5 and 6 hereof. Value added services may only be provided by persons holding a permit pursuant to Article 12 of the Proclamation;
  - (b) the importation, manufacture, sale, lease or installation of telecommunications equipment, including wiring inside users' premises from a network termination point to the users' terminal telecommunications equipment, as provided in Article 23 of the Proclamation. Such activities may only be offered by persons holding a permit pursuant to Article 23 of the Proclamation;
  - (c) the provision of public payphone services. A permit pursuant to Article 12 of the Proclamation is not required if the person who provides such services
    - (i) does not have more than three payphone units (fixed or mobile telephone terminals), or
    - (ii) provides the payphone service in connection with and on the premises of his hotel, restaurant, bar or retail business activities. In all other instances such services may only be provided by persons holding a permit pursuant to Article 12 of the Proclamation;

- (d) internal telecommunications networks for own use as specified in Article 18 of the Proclamation. The services of an installer holding a permit pursuant to Article 23 of the Proclamation shall be used in order to ensure that relevant standards are complied with;
  - (e) telephony and data transmission services for own use, serving a corporate network or a closed user group, and connected to the public telecommunications network. The services of an installer holding a permit pursuant to Article 23 of the Proclamation shall be used in order to ensure that relevant standards are complied with; and
  - (f) private telecommunications networks as specified in Article 19 of the Proclamation.
- (2) A person providing the services specified in items (a), (d), (e) and (f) of this sub-Article shall be entitled to establish his own telecommunications network for this purpose and/or utilize lines leased from the operator of the exclusive rights activities.

## **Part Two**

### **Obligations Applicable to All Operators**

#### **8. Information Requirements**

- (1) Operators of public telecommunications networks and services shall each year inform the Department of the following:
- (i) changes in the information given in the application; and
  - (ii) the geographical market in which the operators operate and the Product market in question, including:

For telecommunications services:

- (a) number of users,
- (b) traffic volume, and
- (c) trading conditions;

For leased lines:

- (a) number of lines per category of leased lines.
- (b) Capacity (bits/s), and
- (c) Trading conditions;

For interconnection:

- a. traffic volume; and
  - b. trading conditions.
- (2) The Department may further elaborate the scope of the information requirement and set a deadline for annual reporting. If required by control considerations or important statistical purposes, the Department may make changes in the information requirement.

## **9. Quality Requirements**

- (1) The Department may make requirements as to the quality of public telecommunications networks and services.
- (2) Operators of public telecommunications networks and services shall take steps to define and control the quality of networks and services, which shall include examining:
  - (a) technical quality (noise, brief interruptions/ breaks, capacity, accessibility etc.),
  - (b) delivery time and punctuality,
  - (c) frequency and duration of faults and breaks/interruptions of service, and
  - (d) time taken to restore service after discovery of a fault.
- (3) The Department may establish further guidelines for methods of registration and for reporting information on quality and may require access to the results of executed registrations and calculations.
- (4) Operators shall annually publish the result of the investigations, together with a description of methods applied. Responsibility for laying down further rules in regard to publication rests with the Department.

## **10. Terms of Delivery**

- (1) Operators of public telecommunications networks and services shall prepare and make publicly available delivery terms governing access to such networks and delivery of such services.

The terms of delivery shall include provisions regarding:

- (a) the deadline for connection and delivery (after the agreement has been entered into);
- (b) the quality of the telecommunications network and telecommunications services, in particular transmission quality and performance specifications;

- (c) the price;
- (d) the associated services;
- (e) the coverage;
- (f) the procedures in the event of non-payment;
- (g) the method of metering usage of a telephony service (charging method);
- (h) maintenance;
- (i) time allowance for fault rectification;
- (j) liability for damages; and
- (k) compensation and refund schemes.

- (2) The Department may make exceptions from all or parts of this Article if it decides that imposing such requirements on an operator seems unreasonable. Subscription contracts shall be based on the terms of delivery.

**11. Safeguarding Users' Telecommunication**

- (1) Operators of public telecommunications networks and services shall implement measures to safeguard networks and services against unlawful interception, other unlawful access to information and unlawful intervention in telecommunications networks. Such measures shall also prevent anyone from being wrongfully charged for other parties' use of public telecommunications networks and telephony services.
- (2) Operators of public telephony services are obliged to prevent a user's call number ("A" number) from being displayed at the site of the called user ("B" user), if the "A" user has reserved himself against this. The same obligation applies in relation to users who have by agreement been allocated an unlisted number.

**12. Statutory Access to Information**

Operators of public telecommunications networks and services shall ensure that information about users and telecommunications traffic required by law is provided.

**13. Termination of offers**

- (1) Offers of access to public telecommunications networks and services shall be maintained for a reasonable period. They may only be terminated after affected users have been notified. Notification shall contain reasons for termination and provide information on alternative offers. Affected users shall be informed as early as possible, and at least two months before it is planned, to terminate the offer.
- (2) Affected users may refer questions of termination of offers to the Department. The Department may order the operators to maintain the offer until the complaint has been decided.

#### **14. Technical Regulation and Use of Standard**

- (1) Relevant technical regulations shall be complied with upon connection of user equipment and upon connection to public telecommunications networks and services. If such regulations have not been established in the area in question, relevant standards shall be employed.
- (2) The Department may impose the use of certain standards if this is called for by essential requirements pursuant to Article 25 (1) of the Proclamation, international obligations or other important social considerations.
- (3) Operators of public telecommunications networks and services shall allow and facilitate the connection of user equipment produced in accordance with relevant standards.

#### **15. Information for Statistical Purposes**

Operators of public telecommunications networks and services shall store and surrender to the Department information on public telecommunications networks and services for statistical purposes.

The Department shall prescribe which information shall be provided, including requirements as to what definitions, calculation methods etc., shall be employed.

The Department may further prescribe the manner in which the information shall be provided, and may in this connection, order operators to prepare reports and statistics in electronic form.

### **Part Three**

#### **Delivery of public telephony service**

#### **16. Numbering Plan**

The Department may order an operator of public telephony services to prepare a proposal for a public telephony numbering plan covering the total Eritrea requirements for a specified period. On approval by the Department, the plan shall form the basis for the public telephony numbering system. The Department must approve any changes of the plan.

#### **17. Metering as the Basis for Issuing Bills**

- (1) Operators of public telephony services shall, as far as possible, introduce a uniform metering system as the basis for invoicing and shall, when requested

to do so by the Department, provide evidence that the system functions as intended.

- (2) Where directory enquiry services and telephone directories are offered to the public, names, addresses and assigned telephone numbers shall be given on non-discriminatory terms, except where a user has reserved himself against such information being made available to the public (unlisted telephone number). Operators of directory enquiry services and telephone directories shall ensure that directory enquiry registers are kept up-to-date and that information is not provided in contravention of secrecy requirements. Access to information about other operators' users shall be agreed upon between the parties.

### **18. Directory Information**

- (1) Operators of public telephony services shall provide directory information containing their users' names, addresses and assigned telephone numbers. Public payphones shall be listed with their address. Users shall be entitled to check the information and request that any errors be rectified.
- (2) Where directory enquiry services and telephone directories are offered to the public, names, addresses and assigned telephone numbers shall be given on non-discriminatory terms, except where a user has reserved himself against such information being made available

### **19. Emergency Services**

- (1) Operators of public telephony services shall provide access to and not require payment from users for calls to the emergency call numbers of emergency services (operated by the fire service, police and public health authorities) or to a special emergency call number for text telephone users. The same applies to the transfer of emergency calls between the emergency services and public telecommunications networks and between the individual public telecommunications networks. Emergency calls from a public payphone shall not require the use of coins or cards.
- (2) Operators of public telephony services shall, provided it is technically feasible, without payment enable telephone numbers and information necessary to locate emergency calls (eg. The user's name and address or the caller's position) to accompany all calls to the emergency services, including calls from private telecommunications networks. The same applies where the user has by agreement been allocated an unlisted telephone number.

### **20. Fault Repair Service**

Operators of public telephony services shall establish a fault repair service for their telephony services. Operators shall also receive and pass on notifications of faults in

other operators' public telephony services. The Department may establish a universal number for this purpose.

## **Part Four**

### **Access to Public Telecommunications Networks.**

#### **Delivery of Public Telephony Services and Leased Lines**

##### **21. Objective, Transparent and Non-discriminatory Terms and Conditions**

- (1) Access to public telecommunications networks, delivery of public telephony services and delivery of leased lines shall be offered to the public on objective, transparent and non-discriminatory terms and conditions.
- (2) Access to public telecommunications networks, delivery of public telephony services and delivery of leased lines shall be offered to other operators on equal and non-discriminatory terms and conditions and with a quality equal to that offered to the operator's own undertaking.

##### **22. Standard Contracts**

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall prepare a standard contract on the basis of delivery terms and conditions pursuant to Article 10 hereof, for access to public telecommunications networks, public telephony services and leased lines.
- (2) The standard contract shall be employed in connection with each delivery, unless this has unreasonable effect for the operators or users.

##### **23. Security for Investments**

Operators of public telecommunications networks, public telephony services and leased lines may set requirements as to security for investments they undertake in order to meet requests for access to public telecommunications networks, delivery of public telephony services and leased lines. Requirements as to security shall be based on objective, transparent and non-discriminatory criteria.

##### **24. Publication of Offers**

- (1) Operators of public telecommunications networks, public telephony services and lease lines shall prepare and publish offers of access to public telecommunications networks, of Article 10 hereof and standard contracts in accordance with the provisions of Article 22 hereof, include all important information, including:
  - (a) geographical supply area;
  - (b) any material constraints on the ability to deliver;

- (c) price elements and services covered by each price element;
- (d) discounts and discount criteria;
- (e) price calculation methods for offers with no fixed price;
- (f) features of a technical and physical nature including technical specifications of interfaces used at network termination points, and standards employed; and
- (g) conditions for connecting telecommunications equipment.

The Department may require changes to be made in an offer.

- (2) Information on new offers shall be made public as soon as possible, and no later than two months before the offer is realised. Changes in existing offers shall be notified to affected users and be made public no later than two months before the change is given effect.
- (3) Operators of public telecommunications networks, public telephony services and leased lines shall distribute and publish the information in a suitable manner and make sure that it is readily available to the public.

**25. Delivery Terms for Leased Lines**

- (1) Terms for offers of leased lines shall in addition to items mentioned in Article 24 hereof include:
  - (a) the procedure for placing an order for leased lines;
  - (b) the contractual period, i.e., the period to which the contract shall normally apply, and the minimum contractual period which the user is obliged to accept;
  - (c) the normal time allowance for delivery, i.e., the period from the order date to the point at which 95 percent of lines for leased lines of the same type have been connected; and
  - (d) the normal time allowance for fault repair i.e., the period from notification of a fault to the responsible unit of the operators to the point at which 80 percent of faults on lines for leased lines of the same type are rectified and the user, where appropriate, notified thereof. If various categories of fault repair are offered for the same type of leased lines, the normal time allowance for fault repair for the various categories shall be stated.
- (2) The normal time allowance for delivery and fault repair shall be calculated on the basis of statistics prepared by operators of public telecommunications networks. Such calculation must not include cases where the user has requested late delivery or late fault repair. Where new types of leased lines are concerned, the expected time allowance for delivery and fault rectification

shall be published until such time as statistics providing a basis for calculation of normal time allowance for delivery and fault rectification became available.

- (3) Information as mentioned in this Article shall be made publicly available.

## **26. Pricing**

- (1) Access to public telecommunications networks, delivery of public telephony services and leased lines shall be offered to the public at cost-oriented tariffs.
- (2) Prices shall be set on an objective and non-discriminatory basis, and be independent of the purpose for which the user wishes to use a public telecommunications network, public telephony services and leased lines. Prices for offers of access to public telecommunications networks, public telephony services and leased lines, as well as services and functions coming in addition to this, shall be sufficiently unbundled, so that the user is not required to pay for services, functions or outputs not strictly related to the service requested.
- (3) Prices for public telephony services shall normally comprise an initial charge, a periodic subscription charge which may vary with subscription type, and a traffic charge which may vary with usage, peak or off-peak hours, distance and subscription type.
- (4) Prices for leased lines shall normally comprise an initial connection charge and a periodic subscription charge. If other price elements are used, it shall be made clear how these are calculated. Charges for leased lines shall include the functions supplied between the network termination points where the user has access to leased lines. When leased lines are supplied by more than one operator, prices may be calculated for each operator's share on a pro rata basis.
- (5) Discounts may be given provided they reflect cost savings for the telecommunications service concerned. The criteria for discounts may include volume, contract period as well as agreed future deliveries of such telecommunications services.

## **27. Accounting**

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall implement and maintain a cost accounting system as a basis for checking that prices are in accordance with Article 26 hereof.
- (2) Accounts for access to public telecommunications networks, for public telephony services and for leased lines shall be kept separate from other business activities. Interconnection, special network access and co-location pursuant to Part Five hereof shall be separated for accounting purposes.
- (3) Costs in connection with establishment, operation and maintenance, as well as marketing and invoicing of public telecommunications networks, public telephony services and leased lines shall be allocated to the respective

telecommunications networks and telecommunications services, provided they may be defined as direct costs.

- (4) Shared costs, i.e., costs which can not be assigned directly to a particular telecommunications service, shall be distributed as follows:
  - (a) on the basis of an analysis of how the costs arose, and if this is not possible;
  - (b) on the basis of comparison with another cost category by employing comparable cost structures where costs can be assigned directly, and if this is not possible;
  - (c) on the basis of a general distribution formula. This shall be calculated on the basis of the relationship between all costs, which are directly and indirectly assigned respectively to public telecommunications networks, public telephony services and leased lines on the one hand, and other telecommunications services on the other hand.

## **28. Control and Regulation of Pricing**

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall each year provide the Department with information on and documentation of the principles, assessments and data underlying pricing and discount schemes.
- (2) The Department may order the use of certain accounting principles, including a method for calculating and allocating costs. The separate accounts pursuant to Article 27 hereof shall be audited by external auditors and be made publicly available.

## **29. Registration and Reporting**

- (1) Operators of public telecommunications networks, public telephony services and leased lines shall register and store information on public telecommunications networks, public telephony services and leased lines, including:
  - (a) information on how delivery terms are met, particularly in regard to delivery and fault rectification times as well as the frequency of various types of faults; and
  - (b) information on cases where restrictions have been imposed on access to or use of public telecommunications networks or public telephony services, including a description of measures taken and the grounds for them.
- (2) The Department may make exceptions from the registration requirement where the restrictions on access to or use of public telecommunications networks, public telephony services or leased lines are of minor significance.

- (3) The Department may order operators to prepare reports and statistics on the basis of information registered pursuant to the sub-Article (1) hereof. The Department may order particular definitions, calculation methods etc., to be employed and reports and statistics to be prepared in electronic form.

## **Part Five**

### **Interconnection, Special Network Access and Co-location**

#### **30. Negotiation Requirements**

Operators of public telecommunications services are entitled to negotiate with operators engaged in exclusive rights activities or limited competition activities on interconnection. The Department may, however, make exceptions from the negotiation requirement, provided technical or financial alternatives to the requested interconnection exist, or if it would be unreasonable to comply with the request. The Department shall give grounds for and publish such exceptions.

#### **31. Agreement on Interconnection**

- (1) Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request to enter into or amend an agreement on interconnection.
- (2) Operators engaged in exclusive rights activities or limited competition activities shall offer interconnection at cost-oriented tariffs.
- (3) Operators engaged in exclusive rights activities or limited competition activities shall prepare and publish reference interconnection offers. Such offers shall, at minimum, contain offered standardized interconnection services, prices, points, interfaces and terms. Offers shall be adapted to market demand and be regularly updated. The Department may, in special cases, order changes to be made in such offers.

#### **32. Agreement on Special Network Access**

- (1) An agreement on special network access shall be entered into after negotiations between the parties.
- (2) Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request from operators of public telecommunications services for special network access. If the parties fail to agree, Article 13(2) of the Proclamation shall apply.

#### **33. Agreement on Co-location**

Operators engaged in exclusive rights activities or limited competition activities shall comply with any reasonable request for co-location from other operators of public telecommunications services. An agreement on co-location shall be entered into after

negotiations between the parties. If the parties fail to agree, the provisions of Article 13(2) of the Proclamation shall apply.

## **Part Six**

### **Miscellaneous Provisions**

#### **34. Supervision**

- (1) The Department shall supervise compliance with these Regulations.
- (2) Operators of public telecommunications networks and services shall facilitate the implementation of supervision. This includes giving supervisory personnel unimpeded access, as well as procuring the information and documentation needed to carry out supervision pursuant to Article 41 of the Proclamation.

#### **35. Internal Control and System Supervision**

The Department may order operators of public telecommunications networks and services to establish systematic internal control of compliance with these Regulations. Documentation showing that an internal control order has been complied with shall be available. The Department shall undertake inspection of such documentation.

#### **36. Right to Lay Matters Before the Department**

A user or other party with a legal interest may request the Department to decide whether an operator of public telecommunications networks and services has acted in contravention of the provisions of these Regulations or decisions rendered pursuant thereto.

The Department may:

- a. decide on the matter and impose one or more of the sanctions under Article 48 of the Proclamation, pursuant to Article 51 (1-2) of the Proclamation; or
- b. refer such disputes, or specified categories of disputes, to an arbitration panel for decision, pursuant to Article 51 (3) of the Proclamation.

#### **37. Exemption**

The Department may in justified cases make an exemption with regard to the provisions of these Regulations.

#### **38. Repeal**

Any provisions of any regulations, order, legal notice or directive concerning matters provided for in these Regulations are hereby repealed and replaced by these Regulations.

**39. Effective Date**

These Regulations shall enter into force on the date of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 17<sup>th</sup> day of August, 1998

Saleh Kekia,

Minister of Transport and Communications.

**PROCLAMATION NO 102/1998**  
**COMMUNICATIONS PROCLAMATION**  
**Part One**  
**General Provisions**

**1. Short Title**

This Proclamation may be cited as «the Communications Proclamation No. 102/1998».

**2. Definitions**

In this Proclamation, unless the context otherwise requires:

- (a) «broadcasting» or «broadcast» means the transmission of voice, music, visual images and the like by radio waves or by cable, intended to be received directly by the general public;
- (b) «broadcasting receiver equipment» shall mean apparatus which receive radio broadcasting and television programmes;
- (c) «communications» means telecommunications, broadcasting and post;
- (d) «Department» means the Communications Department of the Ministry of Transport and Communications;
- (e) «exclusive rights activity» means an activity for which a permit may be issued to one person only granting him for a stipulated term of years the exclusive privilege of engaging in the activity specified in his permit;
- (f) «installer» means a person to whom a permit has been issued pursuant to Article 23 hereof;
- (g) «limited competition activity» means an activity for which permits may be issued to a limited number of persons in accordance with criteria and conditions stipulated by the Department, granting the persons for a stipulated term of years the right to engage in the activity specified in the permit;
- (h) «open competition activity» means an activity for which permits shall be issued to an unlimited number of persons, in accordance with criteria and conditions stipulated by the Department, granting the persons for a stipulated term of years the right to engage in the activity specified in the permit;
- (g) «operator» means a person to whom a permit has been issued pursuant to Articles 12, 28 or 36 hereof;
- (j) «permit» means a permit, issued by the Department under this Proclamation, enabling a person to engage in a business activity as an operator, supplier or an installer provided he has obtained a business licence under the Business Licensing Office Establishment Proclamation No. 72 of 1995;
- (k) «person» means any natural or juridical person engaged in communications and shall include any business organisation or association engaged in communications, whether national or foreign, or private or public;
- (l) «post» means any system for the collection, dispatch, conveyance, handling and delivery of postal articles by or through an operator of postal services;

- (m) «postal article» means any article or thing transmissible by post but does not include such article or thing as the Department may prescribe to be not transmissible by post;
- (n) «postal service» means a commercial offering of any service by post;
- (o) «public telecommunications network», «public telecommunications service» and «public postal service» means a network or a service accessible to the general public or intended to be used by the general public;
- (p) «radio activity» means any establishment and use of radio equipment for radiation, dispatching, transmission or reception of radio signals, including broadcasting, navigation, remote measuring and remote control and for medical, industrial or scientific use or other intentional or unintentional effects of use of radio equipment in a way that the functions of other equipment or apparatus are influenced. Light beam connections in free space used for telecommunications purposes may be regarded as radio activity.
- (q) «regulatory documents» means permits, equipment approvals, certificates, assignments of frequency and other approvals and documents, issued by the Department;
- (r) «supplier» means a person to whom a permit has been issued pursuant to Articles 23 and 30 hereof;
- (s) «telecommunications» means emission, transmission or reception of voice, text, visual images or other data or signals of any nature by means of wire, radio, light, optical or other electromagnetic signals in a communications system for transmission of signals;
- (t) «telecommunications network» means a network for the conveyance and distribution of signals between defined termination points by wire, "radio, optical or other electromagnetic means;
- (u) «telecommunications service» means a commercial offering of telecommunications wholly or partly by means of transmission in a telecommunications network, with the exception of radio broadcasting and television;
- (v) «telecommunications equipment» means apparatus, terminals, radio equipment, satellite earth stations or other technical devices, including software, which can be used for telecommunications purposes or are intended for such use. Radio equipment is a device that conveys or by other means emits signals (radio transmitter) as well as devices which receive signals (radio receiver). Broadcasting receiver equipment is not telecommunications equipment or radio equipment;
- (w) «user» means a person entering into an agreement on access to telecommunications networks or services for own use or loan purposes (end user), or in order to direct offerings at others;
- (x) a word importing the masculine gender shall include the feminine as well.

### **3. Scope**

- (1) This Proclamation regulates communications (telecommunications, broadcasting and post) in the State of Eritrea. This Proclamation does not apply to programme activities of broadcasting (radio broadcasting and television).
- (2) This Proclamation also applies to seagoing vessels and aircrafts registered in Eritrea, and to works, plants and devices of any kind in connection with off-shore activities.

### **4. The Regulatory Authority**

- (1) The Ministry of Transport and Communications shall be the only government agency vested with the regulatory authority of the communications sector pursuant to this Proclamation, including:
  - (a) supervision and promotion of the provision of communications services in Eritrea; and
  - (b) the authority to issue, renew, revoke or transfer permits, equipment approvals, certificates, assignments of frequency and other regulatory documents in the communications sector on behalf of the Government of Eritrea.
- (2) The Department shall be the body empowered to exercise the regulatory authority of the Ministry of Transport and Communications.

### **5. Objectives of the Department**

The objectives of the Department shall be to:

- (1) create a regulatory environment for the supply of communications networks and services;
- (2) promote fair competition and efficient market practice in the communications sector;
- (3) facilitate the entry into markets for communications services of persons wishing to supply such networks and services;
- (4) ensure that operators, suppliers and installers meet their commercial obligations and such other obligations specified under this Proclamation in a manner which promotes co-operation and fairness;
- (5) protect operators, suppliers and installers and the public from the unfair conduct of other operators, suppliers and installers, regarding quality of services and payment of tariffs;
- (6) ensure that operators, suppliers and installers achieve the highest possible level of accountability and responsiveness to customer and community needs;
- (7) ensure that standard telecommunications, broadcasting and postal services are supplied as efficiently and economically as possible and at such performance standards which reasonably meet the social, industrial, and commercial needs of the community;
- (8) promote the development of the other sectors of the Eritrean economy through the commercial supply of modern communications services within the framework of this Proclamation;

- (9) establish technical standards and promote the development of Eritrea's communications capabilities, industries and skills;
- (10) ensure that the Eritrean public have growing access to communications; and
- (11) optimise the use of communications networks and services in Eritrea with due consideration for the rights of the operators, suppliers and installers and the public interest.

## **6. Functions of the Department**

The Department shall have the following functions:

- (1) the responsibility for economic and technical regulation of the communications industry;
- (2) to ensure the safety and quality of communications services by determining technical standards and regulating technical execution and performance;
- (3) the responsibility for giving advice and assistance to the communications industry;
- (4) the promotion of competition in those areas of the communications industry where competition has been introduced;
- (5) to facilitate the entry into the market for communications services by persons wishing to supply such services;
- (6) to establish and manage the Rural Telecommunications Fund;
- (7) to arbitrate disputes between operators, suppliers and installers and other participants in the communications industry;
- (8) to receive and investigate complaints from operators, suppliers and installers, consumers and other persons in the communications industry;
- (9) the responsibility for the protection of the public interest by ensuring that the provisions of this Proclamation are carried out with due regard to public interest;
- (10) the protection of consumers from unfair practice of operators, suppliers and installers and other persons in the supply of communications services;
- (11) to develop performance standards and indices relating to the quality of communications services;
- (12) the issuance of regulatory documents in accordance with the provisions of this Proclamation; and
- (13) to monitor the conduct of the operators, suppliers and installers and to enforce the conditions included in the permits.

## **7. Powers of the Department**

- (1) The Department shall exercise the powers necessary and proper for the attainment of its objectives.
- (2) Without limiting the generality of the foregoing, the Department shall have the following specific powers to:
  - (a) give written directions to operators, suppliers and installers;
  - (b) consult where appropriate with the necessary government authorities;
  - (c) require any person to appear before it:

- (i) to discuss any matter which the Department deems necessary for the purpose of effectively discharging the Department's duties, and
- (ii) to give evidence or produce any document which it considers likely to assist the Department in the discharge of its duties; and
- (d) enter into contract or partnership with any person which in the opinion of the Department is intended to further the implementation of the duties specified in this Proclamation,

#### **8. Power to Issue Regulations and Directives**

- (1) The Minister of Transport and Communications shall have the power to issue regulations and directives regarding any matter which it deems necessary or expedient in order to achieve the objectives of this Proclamation.
- (2) Without limiting the generality of the foregoing, the Minister of Transport and Communications may issue such specific regulations and directives as stipulated in this Proclamation.

#### **9. Management of the Department's Regulatory Functions**

- (1) The Department shall be responsible for the proper operation and administration of the communications regulatory functions.
- (2) Without limiting the generality of the foregoing, the Department shall:
  - (a) develop policies and determine the best management practices in order to fulfil the Department's regulatory responsibilities;
  - (b) ensure an efficient and transparent issuance of the regulatory documents;
  - (c) develop systems in such a manner as to carry out efficiently and effectively the issuance and renewal of the regulatory documents and other functions that are incidental thereto;
  - (d) maintain a register of operators, suppliers and installers;
  - (e) provide guidelines on tariffs chargeable for provision of communications services; and
  - (f) enter into agreement(s) consistent with the powers conferred upon it or the functions entrusted to it by this Proclamation.
- (3) whenever the Department deems it necessary for the efficient management of its regulatory functions, it may delegate part of its powers and functions to its committees.

#### **10. Funding of the Department's Regulatory Functions**

The Department's regulatory functions shall be funded by:

- (a) such government budgetary appropriations as may be determined;
- (b) such sums as may be paid to the Department for regulatory tasks performed;

- (c) such sums as may be paid to the Department by way of fees or levies for the regulatory documents;
- (d) such sums or such other assets as may accrue to or vest in the Department from time to time in connection with the Department's regulatory functions; and
- (e) financial assistance it receives from any funding source.

#### **11. Transfer of Personnel and Property**

- (1) The Department may select such number of personnel as it needs for its regulatory functions from among civil servants.
- (2) The Department may also opt to take over buildings, equipment, tools and other facilities currently used or operated by bodies currently involved in regulating the communications sector.

## **Part Two Telecommunications Networks and Services**

#### **12. Operator's Permit**

- (1) A person desiring:
  - (a) to establish and/or operate a telecommunications network, and/or
  - (b) to provide a telecommunications service, must obtain an operator's permit.
- (2) The Department shall determine whether any of the activities referred to in sub-article (1) of this Article shall be defined as:
  - (a) Exclusive rights activities (Article 2(e)), or
  - (b) Limited competition activities (Article 2(g)).
- (3) Open competition activities (Article 2(h)), encompass:
  - (a) value added services, i.e. services other than basic services and data transmission services as defined by the Department; and
  - (b) all activities which are not defined as exclusive rights activities or limited competition activities.

#### **13. Interconnection**

- (1) An operator engaged in exclusive rights activities or limited competition activities shall be obliged to interconnect his telecommunications network and/or service of another operator.
- (2) If the operators referred to in this Article fail to achieve agreement on the terms of interconnection within six months after the negotiations started, the Department shall, at the request of either operator or both, set up an arbitration panel to settle the dispute. The Minister of Transport and Communications may, by regulation, determine the procedures of an arbitration panel.

#### **14. Permit conditions**

- (1) A permit issued under Article 12 hereof shall be subject to such conditions as the Department may specify in the permit, or as may be specified in regulations referred to in the permit.
- (2) Without limiting the generality of Article 13 and sub-article (1) of this Article a permit issued under Article 12 hereof may include conditions requiring:
  - (a) geographical coverage of the telecommunications network or service, including coverage in rural areas;
  - (b) interconnection and co-ordination between telecommunications networks or services;
  - (c) use of numbers or number series, including names and addresses, in accordance with numbering plans designed by the Department;
  - (d) use of standards;
  - (e) use of specified accounting systems;
  - (f) use of specified methods of calculation of tariffs and prices imposed for services provided;
  - (g) achievement of stipulated performance standards or targets;
  - (h) use of subscription contracts;
  - (i) payment of charges for access to a telecommunications network or service which is operated by another operator; or
  - (j) compliance with other conditions determined by the Department.

**15. Open Telecommunications Networks and Services**

Access to a public telecommunications network or public telecommunications service shall be open and non-discriminatory. The contract conditions shall be based on objective criteria and shall be transparent and readily accessible to the general public.

**16. Permitted restrictions on use**

- (1) An operator may implement restrictions on use consisting in complete denial of access to the network or the services, interruption or disconnection from the network or the service, or limitation of service functions, when this is required for reasons related to telecommunications security or maintaining the integrity of the network, or because the telecommunications equipment or the use of the equipment lacks the necessary approval pursuant to the provisions in or under this Proclamation.
- (2) In emergency situations that involve serious threats to health, security or public order, or the risk of sabotage to networks or services, the operator shall implement necessary restrictions on use.
- (3) The Department may order an operator to implement restrictions on use when necessary in the interest of national security, enforcing permit obligations or other important social interests.
- (4) Restrictions on use shall be notified to the Department and to whom they may concern.
- (5) Restrictions on use for reasons other than those stated in this Article, shall require the prior approval of the Department.

**17. Subscription contracts**

An operator shall prepare subscription contract conditions for telecommunications services providing information about the time-limit for delivery and fault repair, service quality and conditions for access to and use of the services. Subscription contract conditions shall be published.

**18. Internal telecommunication network**

A person desiring to establish an internal telecommunications network which is located within a building or a limited geographical area (business or residential network) and which is intended to be or may be connected to the public telecommunications network, shall comply with general requirements laid down by the Department.

**19. Private telecommunications networks**

- (1) A person desiring to establish a telecommunications network:
  - (a) which is intended solely for the person's own use, and
  - (b) which will not be connected to the public telecommunications network,shall comply with general requirements laid down by the Department.
- (2) If no other reliable telecommunications service is available, the Department may for a term of years allow the owner of a telecommunications network described in this Article (Private telecommunications network), to provide telecommunications services to other users.
- (3) An approval issued under sub-article (2) hereof may be given on such conditions and in consideration of such payments to the Rural Telecommunications Fund as the Department thinks fit.

**20. Rural telecommunications**

- (1) Operators providing basic services as defined by the Department shall contribute towards the development of rural telecommunications by accepting permit obligations with regard to:
  - (a) provision of rural telecommunications networks and services (applicable to the Telecommunications Services of Eritrea, TSE, or its legal successor), or
  - (b) financial contributions to the Rural Telecommunications Fund (applicable to operators other than TSE or its legal successor).
- (2) The Rural Telecommunications Fund shall be established and managed by the Department. The purpose of the fund is to finance establishment and operations of telecommunications networks and services in rural areas where such services may not initially be provided on a commercial basis, in addition to the networks and services provided under sub-article (1)(a) hereof.
- (3) The Rural Telecommunications Fund shall consist of such sums as may be provided by way of:

- (a) payments from operators pursuant to sub-article (1) (b) of this Article;
- (b) payments of fines pursuant to Articles 48 and 49 hereof; and
- (c) other payments, grants or donations.

**21. Right to use real property**

- (1) A public telecommunications operator is, if approved by the Department, and upon prior notice to the owners, entitled to effect and carry on installation and maintenance of telecommunications network, equipment, or other telecommunications devices to be located in, on, below or above public or private real property, building or facility.
- (2) The Department may authorize other telecommunications operators than public telecommunications operators to exercise the rights indicated under sub-article (1) of this Article.
- (3) The owner is entitled to compensation commensurate with the scope of limitation under sub-article (1) of this Article. The Minister of Transport and Communications may, by regulation, determine the procedures in connection with the determination of the compensation.

The owner is not entitled to compensation

- (a) if the purpose is solely to connect the property in question to the telecommunications network or to maintain such connection, or
  - (b) if the land in question is restored to its condition prior to the installation or entry described under sub-article (1) and (2) of this Article.
- (4) Seashores, rivers, canals and lakes, together with their beds, as well as the airspace of Eritrea may be used by telecommunications operators for telecommunications purposes.

## **Part Three Telecommunications Equipment**

**22. Scope**

The provisions of Part Three shall apply to all categories of telecommunications equipment (Article 2(v)), unless exceptions have been made by the Department.

**23. Permits for supplier and installer**

- (1) A person desiring to import, manufacture, sell or otherwise transfer telecommunications equipment, or to install and service such equipment, must obtain a permit as a main supplier, a retail supplier or an installer in accordance with regulations issued by the Minister of Transport and Communications.

- (2) The activities referred to in sub-article (1) of this Article are open competition activities (Article 2(h))
- (3) A permit issued under this Article shall be subject to such conditions as the Department may specify in the permit, or as may be specified in regulations referred to in the permit.

#### **24. Approval of telecommunications equipment**

- (1) The following equipment shall be approved (type approval) by the Department:
  - (a) all radio equipment unless exceptions have been made; and
  - (b) other telecommunications equipment that may be connected to or operated together with public telecommunications networks, or is intended for such use.
- (2) Approval of telecommunications equipment is, however, not required if the equipment according to its labeling is solely intended for connection to non-public telecommunications networks.
- (3) All equipment with the same type description as the approved item of equipment shall be labeled as determined by the Department.

#### **25. Refusal of approval. Revocation**

- (1) The Department may refuse type approval of telecommunications equipment which does not satisfy the following essential requirements:
  - (a) user safety;
  - (b) safety of the operators' employees;
  - (c) electromagnetic compatibility requirements;
  - (d) protection of the telecommunications networks from harm;
  - (e) effective use of the radio frequency spectrum;
  - (f) interworking of terminal equipment with telecommunications network equipment;
  - (g) interworking of terminal equipment via the telecommunications network in justified cases; and
  - (o) other considerations which the Minister of Transport and Communications may, by regulation, add to this list.
- (2) The Department may revoke a type approval if the telecommunications equipment or the labeling is altered after the approval is given, if the equipment no longer complies with the essential requirements pursuant to this Article, or if other major pre-conditions for approval no longer apply.
- (3) Revocation of type approval includes all telecommunications equipment with the same type description, unless the reason for the revocation is that the equipment or the labeling is altered after the date when approval was given.

## **26. Prohibition of import, sale and use of telecommunication equipment**

- (1) It shall be prohibited:
  - (a) to import telecommunications equipment for private use, to offer, to sell, or in any other way transfer telecommunications equipment to others; or
  - (b) to connect telecommunications equipment to public telecommunications networks, and to possess, establish or use such equipment; unless the equipment is type approved.
- (2) It shall be prohibited to connect telecommunications equipment to public networks when the equipment is not intended for such use.
- (3) It shall be prohibited to transfer radio equipment which requires approval to other than those who can document possession of the necessary permits.
- (4) The prohibition under this Article also includes equipment which does not comply with the essential requirements pursuant to Article 25(1) hereof.

## **27. Prohibition of marketing of telecommunication equipment. Withdrawal**

If use of telecommunications equipment may involve threats to essential requirements pursuant to Article 25 (1) hereof, the Department may order the manufacturer or supplier to cease the offering and marketing of such equipment at once, as well as to take measures to withdraw the equipment from the market.

## **Part Four Broadcasting**

### **28. Operator's permit**

- (1) A person desiring to:
  - (a) establish and/or operate installations for broadcasting or the retransmission of broadcasting, and/or
  - (b) broadcast nationally, and/or
  - (c) broadcast locally, i.e. within a geographically delimited area, must obtain an operator's permit.
- (2) The Department shall determine which of the activities referred to in this Article shall be defined as exclusive rights activities (Article 2(e)), or as limited competition activities (Article 2(g)).
- (3) A permit issued under this Article shall be subject to such conditions as the Department may specify in the permit, or in regulations referred to in the permit.

### **29. Right to retransmission**

Simultaneous and unaltered retransmission by way of cable networks limited to 10 buildings and/or 40 households does not require a permit.

**30. Supplier's permit**

- (1) A person desiring to import, manufacture, sell or otherwise transfer broadcasting receiver equipment must obtain a supplier's permit in accordance with regulations issued by the Minister of Transport and Communications.
- (2) The activities referred to in this Article are open competition activities (Article 2(h)).
- (3) A permit issued under this Article shall be subject to such conditions as the Department may specify in the permit, or as may be specified in regulations referred to in the permit.

**31. Approval of broadcasting receiver equipment**

- (1) Broadcasting receiver equipment shall be approved (type approval) by the Department unless exceptions have been made.
- (2) All equipment with the same type description as the approved item of equipment shall be labeled as determined by the Department.
- (3) It shall be prohibited to import broadcasting receiver equipment, to offer, to sell, or in any other way transfer broadcasting receiver equipment to others unless the equipment is type approved.

**Part Five**  
**Radio Activities and Frequency Management**

**32. Scope**

The provisions of Part Five shall apply to all radio activities (Article 2(p)), unless exemptions have been made by the Department.

**33. Assignment of Frequency**

The Department shall assign radio frequencies for radio activities within the framework of actual or planned use of frequencies. Consideration may be made regarding future frequency needs.

**34. Certificate to Use Radio Equipment and Radio Systems**

Radio equipment or a system with interworking radio equipment may only be possessed, established or used provided a certificate has been issued subject to conditions, including transmission effect, location of equipment, band width, area of coverage, connection of equipment, band width, area of coverage, connection to the

public telecommunications networks and the requirement to implement security measures to prevent illegal use.

**35. Refusal of Assignment or Certificates, Revocation**

- (1) The Department may refuse to issue a frequency assignment or certificate pursuant to Articles 33 or 34 hereof respectively, when this is justified by general telecommunications policy objectives (Article 5) or by essential requirements pursuant to Article 25 (1) hereof, or because a permit to establish or operate a telecommunications network or service has not been obtained. A certificate may also be refused if the radio equipment fails to comply with the requirements stipulated in or under this Proclamation.
- (2) An assignment or a certificate may be revoked due to conditions as stated in sub-article (1) of this Article or if other major conditions for the assignment or the certificate are no longer satisfied. Frequency assignment may also be revoked pursuant to international agreements which Eritrea has ratified.

**Part Six  
Postal Services**

**36. Operators permit**

- (1) The Department shall issue a permit to Eritrea Postal Services (EPS) allowing EPS to be the public postal service operator and to perform all or any functions relating to the operation and provision of postal services in the State of Eritrea.
- (2) Courier services and other specific postal services as determined by the Department are limited competition activities (Article 2(g)). A person other than EPS desiring to provide such services must obtain an operator's permit.
- (3) All postal services other than the services referred under Article 36 (2) hereof are exclusive rights activities (Article 2(e)).
- (4) A permit issued under this Article shall be subject to such conditions as the Department may specify in the permit, or as may be specified in regulations referred to in the permit.

**37. Transmission of postal articles**

- (1) The Minister of Transport and Communications shall issue regulations and directives as to the transmission by post of postal articles.
- (2) Without limiting the generality of the foregoing, such regulations may:
  - (a) prescribe the charges or fees to be charged for postal services provided;

- (b) provide for the performance of supplementary services in respect of transmission by post of postal articles; and
- (c) prohibit the transmission by post of postal articles which are likely to injure any person or any postal article in the course of transmission by post.

**38. Postage stamps**

- (1) EPS may, subject to such directions as the Department may give, cause postage stamps to be provided of such kinds and denoting such values as EPS may determine for the purposes of this Proclamation.
- (2) Any postage stamp provided under this Article shall be used for prepayment of any postage or other sums chargeable in respect of any postal article, except where the EPS determines that prepayment may be made in some other manner.

**39. Postal financial services**

- (1) The Department may allow EPS to carry out postal financial services on its own account or on behalf of government and non-government agencies and may make directives as to such services with the concurrence of the Bank of Eritrea.
- (2) For the purposes of this Article, “postal financial services” shall include money orders, postal orders, postal drafts, postal cheques, postal travelers’ cheques, giro, cash-on-delivery, collection of bills, subscription to newspapers and periodicals, post office savings bank services and any other form of financial service.
- (3) Interest on deposits in the post office savings bank services shall be paid at a rate determined from time to time by the Department with the concurrence of the Bank of Eritrea.

**Part Seven**  
**Miscellaneous Provisions**

**40. Regulatory documents**

- (1) No regulatory document with the exception of equipment approval, may be transferred and assigned to another person without the approval of the Department.
- (2) A regulatory document shall be valid for such period as may be specified therein and may be renewed.
- (3) Permits issued under this Proclamation shall consist of two documents:

- (a) one document (permit certificate) which includes a certificate of qualification and/or a certificate of grade, and
- (b) another document (permit conditions) which contains the conditions attached to the permit.

The Minister of Transport and Communications may issue regulations with regard to certificates of qualification and certificates of grade in connection with permits issued under this Proclamation.

#### **41. Inspection and control**

- (1) The Department monitors that the requirements laid down in or under this Proclamation are complied with, including monitoring of the operator's contract with the user.
- (2) The Department may, in connection with the monitoring, carry out random tests and initiate measurements and other control measures. Control may be carried out without prior notice.
- (3) Anyone submitted to control measures shall ensure that the Department has unimpeded access to the premises where communications equipment or other devices subject to this Proclamation are located.
- (4) The Department may order the owner or the owner's representative to be present during the control. Necessary documentation shall be made available to the Department. Lack of co-operation during the control may result in closure of the applicable communications activities.
- (5) The Department may order the establishment of internal control systems to ensure that the requirements laid down in or under this Proclamation are complied with. Documentation showing the compliance of the requirements as regards internal control shall be prepared. This documentation shall be accessible to the Department.

#### **42. Correction and Closure**

- (1) The Department may demand that operators, suppliers and installers alter their contractual practices in accordance with the requirements laid down in or under this Proclamation.
- (2) The Department may implement closure of a communications network, a communications service, communications equipment, a radio activity, when no permit, certificate, assignment or approval as prescribed by or under this Proclamation has been granted, or when the activity may cause serious threats to health or security. Closure may be carried out without prior notice.
- (3) In connection with closure the Department may decide that radio equipment shall be dismantled and sealed.

- (4) In connection with closure the Department may decide that communications equipment which appear to have been used in violation of provisions of this Proclamation shall be seized. If there is no prosecution with regard to any equipment seized under this sub-article, the equipment shall be taken and deemed forfeited to the Department, unless a claim is made within two months from the date of seizure and the Department finds that the claim is justified.
- (5) When considered essential, the Department may demand assistance from the police to carry out closure, sealing and/or seizure.

**43. Security Measures**

The Department may order an operator, owner of radio systems and user of radio equipment, as well as an installer of communications networks and equipment, to implement security measures with respect to national security, protection privacy, duty of confidence or other important social interests, including transmission of announcements from governmental authorities when this is of major importance. Costs and losses in connection with these measures shall ultimately be covered by the person or body who orders these measures. Orders regarding protection may be issued without prior notice.

**44. Duty of disclosure**

- (1) The Department may request information necessary for the implementation of this Proclamation or for tasks which are transferred to the Department in connection with international agreements ratified by Eritrea, i.e. to investigate possible violation of this Proclamation, or regulations or directives issued pursuant to this Proclamation.
- (2) The information may be requested or delivered in writing or orally within a stipulated deadline from a person or body or groups of bodies or organizations. If the deadline is not complied with, the permit, the approval or other certificate, assignment pursuant to this Proclamation may be revoked.
- (3) The duty of confidentiality pursuant to Article 46 hereof or pursuant to other provisions of Eritrean law shall not preclude the duty to provide information as stipulated in this Article.
- (4) The Department shall preserve confidentiality in relation to the information provided under a duty of disclosure.

**45. Publication of Information**

- (1) The Department may publish information concerning an operator's contractual practice to ensure that the requirements to provide open access to communications networks and services are complied with. Consideration shall

be given as regards the justified interests of commercial firms in preserving business secrets. Information concerning technical devices or solutions shall not be published.

- (2) No one may request information from the Department obtained pursuant to Article 44 hereof in connection with the procedures laid down in Article 41 of this Proclamation.

#### **46. Duty Of Confidentiality**

- (1) An operator, a supplier and an installer are obliged to treat as confidential the contents of the communications and others' use of communications, including information about technical devices and procedures. They are obliged to implement measures to prevent others except those whom this information concerns, to obtain access to such information by themselves. Neither may they make use of the information in their own activities or in service for or employment by others, unless the information consists of statistical information on network traffic which is fully anonymized and which does not reveal information about devices or technical solutions.
- (2) The duty of confidentiality pursuant to this Article also applies to everyone in the service or employment of an operator, a supplier, an installer or the Department. The duty of confidentiality also applies for 3 years as of the termination of the service or employment.
- (3) Other statutory duty of confidentiality based on law applies in addition to this Article.

#### **47. Fees and levies**

- (1) Fees for the regulatory documents or other administrative services which are rendered pursuant to or under this Proclamation, shall be paid in the amount as stipulated in regulations issued by the Minister of Transport and Communications.
- (2) The Department may order an operator to pay charges to another operator for connection to a network or a communications service.

#### **48. Sanctions**

- (1) If a person fails to comply with the requirements laid down in or under this Proclamation or in regulatory documents, the Department may impose one or more of the following sanctions:
  - (a) rectification within a stipulated deadline. If the order is not carried out, coercive fines pursuant to Article 49 may be imposed; or
  - (b) obligation of public apology by the person who has failed to comply, at such person's cost, for his breach, in a newspaper of general circulation, to run for two consecutive days; or
  - (c) payment of a fine determined by the Department, to the Department; or

- (d) payment of a fine determined by the Department to the applicable customers of the person who has failed to comply, or to injured parties for injury caused by such person as a result of the non-compliance; or
  - (e) reduction of the period of exclusive rights with regard to one, several or all services; or
  - (f) reduction of the period of validity of the regulatory document; or
  - (g) suspension of the regulatory document, or
  - (h) revocation of the regulatory document.
- (2) In addition to the circumstances described in sub-article (1) of this Article the regulatory document may be revoked if the person to whom the document is issued:-
- (a) agrees in writing with the Department that the document should be revoked;
  - (b) is unable to pay his debts;
  - (c) enters into receivership or liquidation; or
  - (d) ceases to carry on his business.

**49. Coercive Fines**

To ensure that decisions pursuant to or under this Proclamation are complied with, the Department may decide that anyone subject to such decision shall pay a daily coercive fine to the Department for each day until the conditions are rectified. An order to pay a fine is regarded as grounds for enforcement of distraint.

**50. Penalties**

Any person who violates the provisions of this Proclamation or regulations issued there under shall be punished in accordance with the Penal Code of Eritrea.

**51. Disputes**

- (1) Any dispute between (a) a user and (b) an operator, a supplier or an installer, in which it is alleged that the latter has:
- (a) acted in contravention of the conditions of his permit to the detriment of the user; or
  - (b) without due reason restricted use owing to payment default; or
  - (c) without due reason implemented alteration or closure of services,
- may be referred to the Department for decision. Others with a legal interest in the case may also request a decision.
- (2) The Department shall determine whether the allegation is well founded, and if it is, make such direction as is appropriate together with a statement of reasons for reaching the decision made. The Department may also impose sanctions pursuant to Article 48 hereof.
- (3) The Department may decide that all disputes, or specified categories of disputes, shall be referred to an arbitration panel for decision. The Minister of

Transport and Communications may, by regulation, determine the procedures of the arbitration panel.

**52. Judicial review**

- (1) A person aggrieved by an adverse decision under Articles 12, 14, 23, 28, 36, 48.1(c-h), 49 hereof and such other provisions of this Proclamation as the Department may determine, may, within 30 days after such decision has been rendered, seek a review by the High Court of Eritrea, upon paying the required court fee. The High Court shall have exclusive jurisdiction.
- (2) The High Court shall set aside a decision which it finds:
  - (a) arbitrary, an abuse of discretion, or otherwise not consistent with law; or
  - (b) not made consistent with required procedures; or
  - (c) unsupported by substantial evidence.The decision of the High Court shall be final.
- (3) Instead of seeking a review pursuant to sub-article (1) of this Article an operator may refer the Department's decision to arbitration if he has the right to use that venue according to his permit.

**53. Reregistration**

Persons who when this Proclamation enters into force, hold a permit, license, certificate, approval, assignment or other similar document concerning matters provided for in this Proclamation, shall apply for re registration in accordance with procedures determined by the Department.

**54. Repeal**

Any provisions of any proclamation, decree, order, legal notice or directive concerning matters provided for in this Proclamation are hereby repealed and replaced by this Proclamation.

**55. Effective Date**

This Proclamation shall enter into force on the day of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 2<sup>nd</sup> day of March, 1998  
Government of Eritrea

# **PROCLAMATION NO. 111/2000**

## **The Land Transport Proclamation**

Cognizant that the role of a comprehensive, reliable and efficient land transport system is critical for and in the socio - economic growth of our society; and

Fully aware that the establishment and regulation of appropriate standards and techniques is necessary for and in the utilization of said land transport system;

Now, therefore, for and in the implementation of the fundamental considerations herein above, this present Proclamation is issued as follows:

### **Part One**

#### **General Provisions**

##### **1. Short Title**

This Proclamation may be cited as “the Land Transport Proclamation No. 111/2000”.

##### **2. Definitions**

In this Proclamation, unless the context otherwise requires:

- (a) “Bicycle” means a vehicle propelled by the motive power of the person operating the same;
- (b) “Carriage” means any vehicle other than a bicycle, a motor vehicle, a trailer and a semi-trailer;
- (c) “Commercial land transport” means
  - (i) Private commercial land transport where the vehicle used for carrying passengers or goods is owned by the person who avails transport services to his/its employees to-and-from the place of business of employment or is entrusted with such goods whose transportation is necessary and complementary to his/its business objectives; or
  - (ii) Public commercial land transport where it is not classified as private commercial land transport.
- (d) “Department” means the Land Transport Department of the Ministry of Transport and Communications;
- (e) “Ministry” or “Minister” means the Ministry or Minister of Transport and Communications, respectively;

- (f) “Motor vehicle” means a vehicle propelled by mechanical or electrical power, classified as truck, motor cycle, motorcar, public service vehicle, tractor or special mobile equipment;
- (g) “Passenger” means any person riding in a vehicle, other than the driver, conductor or any other person assigned to work on a vehicle;
- (h) “Person” means any natural or juridical person engaged in Land Transport by the use of a motor vehicle;
- (i) “Regulatory documents” means permits, approval certificates, driving licenses and ownership certificates issued by the Department;
- (j) “Road” means any road, highway or any other travel route including a bridge, which is, customarily used by vehicles, other than private road not open to all traffic;
- (k) “Special mobile equipment” means any vehicle designed, adapted or used for agricultural, horticultural, livestock raising, road construction, building, digging or any other similar operation;
- (l) “Train” means a vehicle, including a motor vehicle, constructed or adapted for use and used primarily for travel on the rails of a railway line; and
- (m) “Vehicle” means any type of wheeled vehicle for use on roads, classified as carriage, bicycle, motor vehicle, trailer and semi-trailer.

### **3. Scope of Application and objectives**

The scope of application and objectives of this Proclamation are and shall be the establishment and development of an overall national land transport system and the regulation of the use, maintenance, enhancement and management to ensure efficient, safe and reliable services on roads, highways and railways.

### **4. Regulatory Authority**

- (1) The Ministry is and shall be the only Government agency vested with the regulatory authority of the land transport sector and the implementation, supervision and control of utilization of Land Transport services as well as the issuance of regulations and regulatory documents, including renewal, revocation or transfer of permits, approval of vehicles and equipment.
- (2) The Department is, in compliance with this Proclamation, entrusted and empowered with the Ministry’s regulatory mandate for and in the implementation and realization of the objectives of this Proclamation.

### **5. Powers of the Department**

- (1) The Department is hereby empowered to:
  - (a) Exercise and implement all necessary and appropriate measures for the effective realization of the objectives of this Proclamation; and
  - (b) Represent the Ministry in all its dealings with third parties in land transport activities.
- (2) The Department is further authorized to formulate, prepare and submit for the Minister's consideration and action such laws and regulatory directives related to the administration and attainment of the objectives of this Proclamation.
- (3) The Department may, with the prior approval of the Minister, delegate part of its powers and duties to Zonal and sub-Zonal administrations or municipalities provided that they shall, in exercising the powers and duties so delegated to them follow and observe the laws relating to land transport and standards issued by the Department.

#### **6. Duties and Responsibilities of the Department**

- (1) The Department shall have, among others, the following duties and responsibilities to:
  - (a) ensure the proper administration, implementation and operation of the land transport regulatory functions;
  - (b) develop an overall land transport system and maintain and enhance efficient, economical and sustainable land transport service;
  - (c) establish and regulate a high standard safety and infrastructure for and in land transport services; and
  - (d) exert all efforts for and in the reduction of pollution attributable to Land Transport.
- (2) Without limiting the generality of the foregoing, the Department shall:
  - (a) develop policies and determine the management practice so as to fulfill its regulatory responsibilities;
  - (b) ensure an efficient and transparent issuance of regulatory documents;
  - (c) establish systems in such a manner as to carry out efficiently and effectively the issuance and renewal of the regulatory documents and other functions that are incidental thereto;
  - (d) maintain registers;
  - (e) provide guidelines on tariffs chargeable for provision of land transport and related services; and

- (f) enter into agreement(s) consistent with the powers conferred upon it or the functions entrusted to it.
- (3) For and in the effective administration and implementation of its duties, the Department shall perform the following functions to:
- (a) assume the responsibility of formulation and regulation of technical and economical standards for the land transport sector;
  - (b) ensure the safety, adequacy and quality of land transport services;
  - (c) determine the weight, size, number of passengers and load capacity of vehicles using the road;
  - (d) issue and supervise the implementation of regulations for the registration and control of vehicles using the road;
  - (e) control the importation, manufacture or assembling of vehicles in Eritrea and issue technical specifications and related standards therefore;
  - (f) issue permits and regulate commercial land transport activities;
  - (g) facilitate investment and promote competition in land transport services;
  - (h) receive and investigate complaints from land transport service suppliers, users and others and effect appropriate measures;
  - (i) safeguard public interest by ensuring that the provisions of this Proclamation and regulations issued thereunder are carried out appropriately;
  - (j) supervise the implementation of regulations, regulatory documents and manuals related:
    - (i) licensing of persons driving vehicles and the conduct of operation and handling of special mobile equipment;
    - (ii) the requirements to be met by persons engaged in training and instructions on motor vehicles and special mobile equipment operation and handling; and
    - (iii) certification of the technical competence, classification and grading of garages engaged in the repair and maintenance of vehicles.
  - (k) issue and enforce standard specifications for commercial land transport terminals to be constructed and operated by municipalities or other persons;

- (l) direct and implement, in case of natural disasters or temporary economic or social crises, commercial land transport vehicles to operate in areas and routes where their services may be demanded pursuant to directives given by the Government in accordance with law;
- (m) issue and follow up the implementation of regulatory directives on conditions under which passengers, mail and goods may be transported by commercial land transport;
- (n) determine, as necessary, the color and distinguishing marks on commercial land transport vehicles;
- (o) prepare, as and when necessary and taking into account the opinions of users and transport service suppliers, and submit to the Minister, tariffs to be charged by public commercial land transport and enforce the same upon approval;
- (p) collect and compile on regular basis, information and data relating to land transport, monitor the conduct and performance of land transport services and enforce appropriate steps thereon;
- (q) ensure that all motor vehicles in Eritrea carry third party insurance policy and that motor vehicles engaged in public commercial transport carry, in addition, insurance coverage for passengers and baggage;
- (r) prepare, in consultation with concerned national agencies and taking into account international criteria, standards related to smoke, gas, vapour and the like emitted from exhaust pipes of vehicles to prevent pollution, and submit the same to the Minister and, upon approval, implement the same;
- (s) develop performance standards and indices relation to the quality of land transport services.
- (t) undertake studies and prepare plans and programs to promote the development of all aspects of land transport and implement the same upon approval;
- (u) determine and collect fees, rents and other charges payable for services rendered by it;
- (v) provide regulatory documents in accordance with the provisions of this Proclamation; and
- (w) implement and enforce government policies and laws relating to land transport and treaties to which Eritrea is a Party.

## **Part Two**

### **Persons Engaged in Land Transport**

#### **7. Public and Private Commercial Land Transport Activities**

- (1) Any person authorized in accordance with the relevant laws may engage in public or private commercial land transport activities.
- (2) Any person engaged in commercial land transport is bound to observe and comply with the laws relating to Land Transport.

## **Part Three**

### **Miscellaneous Provisions**

#### **8. Use of Regulatory Documents**

- (1) No regulatory documents, including permits, may be transferred and/or assigned to another person without the approval of the Department.
- (2) A regulatory document shall be valid for such period as may be specified therein and may be renewed.

#### **9. Inspection and Control**

- (1) The Department shall monitor that all land transport standards and requirements laid down in or under this Proclamation are complied with.
- (2) The Department may, in connection with the monitoring, carry out random tests and initiate measurements and control measures. Such monitoring activities may be carried out without prior notice.
- (3) The Department may order the owner or the owner's representative to be present during the inspection and necessary documents shall be made available to the Department.
- (4) The Department may order the establishment of internal control system to ensure that the requirements laid down in or under this Proclamation are complied with. Documents showing the compliance of the requirements as regards internal control shall be prepared.

#### **10. Exclusive Rights and Contracts**

- (1) The Department may, where it finds it necessary, grant to persons engaged in public commercial land transport exclusive or restricted franchises so as to:

- (a) encourage investors to engage in the provision of public commercial land transport service to localities where there is no such service or where it is inadequate; and
  - (b) support the efforts of the people of certain localities in constructing and maintaining roads with their own labour and at their own expenses.
- (2) Without prejudice to sub-article (1) of this Article, nothing herein contained shall be deemed to prohibit or restrict the right of such transporter to conclude exclusive contracts of cargo with any person engaged in public commercial land transport.

**11. Duty to Have Vehicles Registered**

- (1) No vehicle, except a bicycle, and a carriage or a special mobile equipment with a maximum speed of less than 20 K.m per hour, shall be driven or operated on any road unless said vehicle:
- (a) has been registered in accordance with the regulations issued pursuant to this Proclamation; and
  - (b) bears the appropriate registration plates or other identification marks.
- (1) The absence of appropriate registration plate or other identification mark shall constitute prima facie evidence that the vehicle has not been registered and the police may detain said vehicle pending appropriate inquiries.

**12. Requirements of Holding a Driving License**

- (1) No person may drive a motor vehicle on any road unless he/she is a holder of a valid driving license, issued in accordance with regulations issued hereunder, authorizing him/her to drive the particular type of motor vehicle.
- (2) No owner of any motor vehicle may allow any person to drive his vehicle unless such person is the holder of a valid driving license.
- (3) Notwithstanding the provisions of sub-article (1) and (2) of this Article, conditions under which persons not holding valid driving licenses may drive for the purpose of learning shall be determined by regulations to be issued by the Ministry.

**13. Fees**

Fees for the regulatory documents, manuals or administrative services which are rendered pursuant to or under this Proclamation, shall be paid in the amount as determined in regulations issued by the Minister.

**14. Exemption**

On the basis of reciprocity, diplomatic and consular missions and other foreign and international missions and organizations which the Minister determines are entitled

by agreement or by international custom shall be exempt from the payment of fees levied in connection with the registration of vehicles and the issuance of driving licenses.

**15. Duty of Disclosure**

- (1) The Department may directly or through appropriate government agencies request information necessary for the implementation of this Proclamation or for tasks which are transferred to the Department in connection with international agreements ratified by Eritrea.
- (2) The information may be requested or delivered in writing or orally within a stipulated deadline. If the deadline is not complied with, any permit, approval or other certificate issued pursuant to this Proclamation may be revoked.

**16. Sanctions**

- (1) If a person fails to comply with the requirements laid down in or under this Proclamation or in regulatory documents, the Department may take one or more of the following measures:
  - (a) give an order to the person to comply with the requirements within a stipulated deadline; or
  - (b) impose payment of a fine not exceeding five thousand (5000.00) Nacfa to the Department; or
  - (c) reduce the period of validity of the regulator document; or
  - (d) suspend the regulatory document; or
  - (e) revoke the regulatory document.
- (1) In addition to the circumstances described in sub-article (1) of this Article, the regulatory document may be revoked if the person to whom the document is issued:
  - (a) agrees in writing with the Department that the document should be revoked; or
  - (b) enters into bankruptcy or liquidation; or
  - (c) ceases to carry on his business.

**17. Penalties**

Any person who violates the provisions of this Proclamation or regulations issued hereunder shall be punished in accordance with the Penal Code of Eritrea.

**18. Judicial review**

- (1) A person aggrieved by an adverse decision under Article 16 hereof and such other provisions of this Proclamation under which the Department may decide, may, within 30 days after such decision has been rendered, seek a review by the High Court of Eritrea.
- (2) The High Court shall set aside a decision which it finds is:
  - (a) arbitrary, an abuse of discretion, or otherwise not consistent with law; or
  - (b) not made consistent with required procedures; or
  - (c) unsupported by substantial evidence.
- (3) The decision of the High Court shall be final.

**19. Power to Issue Regulations**

The Minister is, for and in the realization of the objectives of this Proclamation, empowered to issue regulations in compliance with this Proclamation.

**20. Repeals**

Any provisions of any law or directive concerning matters provided for in this Proclamation are hereby repealed and replaced by this Proclamation.

**21. Effective Date**

This Proclamation shall enter into force on the day of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 25<sup>th</sup> day of August, 2000,

Government of Eritrea.

## **Legal Notice No.59/2002**

### **TRANSPORTATION OF GOODS REGULATIONS**

#### **1. Short Title**

These Regulations may be cited as the “Transportation of Goods Legal Notice No.59/2002”

#### **2. Definitions**

In these Regulations, unless the context otherwise requires:

“chief officer of customs”, means the manager of the customs office or customs offices that serve that area or place;

“conveyance” means any vehicle, aircraft, water-borne craft or other contrivance, including camels and other beasts of burden, that is used to move persons or goods;

“Director General” means the Director General of the Customs Department;

“Proclamation” means the Customs Proclamation No. 112/2000.

#### **3. Conditions Under Which Goods May be transported**

- (1) Subject to sub-article (3) hereof, no person shall transport or cause to be transported within Eritrea goods that have been imported but have not been released unless;
  - (a) the person submits an application in prescribed form for permission to transport the goods to the chief officer of customs for the area or place in which the transportation of the goods is to begin or, where the person proposes to transport such goods or cause such goods to be transported on a regular basis, to the Director General.
  - (b) The person deposits the security required by sub-article 6(1) hereof with the chief officer of customs or the Director General.
  - (c) The person receives permission to transport the goods from the chief officer of customs or the Director General, as the case may be;
  - (d) The person presents a description of the goods in the prescribed form to an officer; and

- (e) The conveyance or container or part that contains the goods is sealed with a seal issued or approved by the Director General except where;
  - (i) The conveyance or container or part thereof is of a nature or size that precludes the sealing,
  - (ii) The goods are live animals, or
  - (iii) The person has been authorized by an officer to transport the goods or caused them to be transported in an unsealed conveyance or container.
- (2) Every person who transports or causes to be transported within Eritrea goods that have been imported but have not been released shall notify the consignee in prescribed form of the arrival of the goods.
- (3) Sub-article (1) hereof does not apply to the transportation of goods within Eritrea prior to the time the goods are required to be reported under Article 13 of the Proclamation and under the Reporting of Imported Goods Regulations.

#### **4. Accidents or Other Unforeseen Events**

- (1) If, as the result of an accident or other unforeseen event occurring in the course of transporting goods,
  - (a) a seal is damaged or broken,
  - (b) a container or conveyance is damaged or disabled and to preserve the goods they must be removed there from, or
  - (c) a conveyance is damaged or disabled and can no longer be used to transport the goods,the person transporting the goods shall forthwith report the accident or event as the case may be, to the chief officer of customs for the area or place in which the accident or event occurred or the damage, break or disablement was discovered.
- (2) In any case described in sub-article (1)(b) or (c) hereof, the goods being transported shall not be transferred to another conveyance or container unless;
  - (a) the person who transports the transferred goods or who causes those goods to be transported complies with the requirements of these regulations; and
  - (b) in the case of goods transferred from a conveyance or container that is sealed:
    - (i) the transfer is conducted in the presence of an officer who has been requested by the chief officer of customs to supervise the transfer; and

- (ii) the conveyance or container to which the goods are transferred is sealed with a seal issued or approved by the Director General.

## **5. Liability of Transporter for Duties**

- (1) Proof of any of the events described in sub-articles 4(1)(a) (b) of Article 4 shall be given in writing to an officer within 15 days of the day on which the goods were reported pursuant to Article 13 of the Proclamation or the events are claimed to have happened.
- (2) Where it is determined that the transporter is liable for the duties owing on the goods a demand for payment of duties and taxes will be made from the transporter. Failure to do so within 15 days will result in a demand to the surety company for payment of the duties owed or the cashing in of other forms of security, as applicable. In addition, all in bond privileges of the carrier may be withdrawn.

## **6. Security**

- (1) Every person who transports or causes to be transported within Eritrea goods that have been imported but have not been released shall give security to secure his compliance with the requirements of the Proclamation and the regulations respecting the transportation of the goods.
- (2) The security given under sub-article (1) hereof shall be in the form of:
  - (a) cash; or
  - (b) a certified cheque; or
  - (c) a bond approved by the Minister of Finance.
- (3) Subject to sub-article (4) hereof, the security referred to in sub-article (1) of this Article shall be in an amount equal to the greater of:
  - (a) the duties payable in respect of the goods; and
  - (b) 10,000 nakfas.
- (4) Where goods are to be transported or caused to be transported by a person on a regular basis, the security referred to in sub-article (1) hereof shall be in an amount that is determined by the chief officer of customs, but in no case shall the amount of security be less than 50,000 Nakfa.
- (5) The chief officer of customs may, at any time where the chief officer of customs considers it necessary, require a person who transports or causes to

be transported goods within Eritrea to increase the amount of security given under sub-article (1) hereof to an amount sufficient to ensure the payment of any duties payable in respect of those goods.

## **7. Records**

- (1) Every person who transports or causes to be transported goods into Eritrea, or transports or causes to be transported within Eritrea goods that have been imported but have not been released, shall keep all invoices, bills, accounts and statements, or a copy thereof, relating to the transportation of the goods and, in addition, shall keep:
  - (a) In the case of goods transported into Eritrea, any written report required to be made under the Reporting of Imported Goods Regulations or a copy thereof; and
  - (b) In the case of goods imported into Eritrea but not released, the description of the goods referred to in Article 3(1)(d) hereof.
- (2) The records described in sub-article (1) hereof shall be kept for a period of five years commencing on the 1<sup>st</sup> day of January of the calendar year following the calendar year during which the goods were transported.

## **8. Effective Date**

These Regulations shall come into force on the date of their publication in the Gazette of Eritrean Laws.

**Done at Asmara, this 22<sup>nd</sup> day of January, 2002**

**Berhane Abrehe  
Minister of Finance**

## **Legal Notice No. 60/2002**

### **IN-TRANSIT SHIPMENTS REGULATIONS**

#### **1. Short Title**

These Regulations may be cited as the “In-Transit Shipment Legal Notice No. 60/2002”

#### **2. Definitions**

In these Regulations, unless the context otherwise requires:

“chief officer of customs” means the manager of the customs office or customs offices that serve that area or place;

“in-transit” the in-bond movement of foreign goods through Eritrean territory from a point outside Eritrea to another foreign point;

“Proclamation” means Customs Proclamation No. 112/2000

#### **3. Report of In-Transit Goods**

- (1) Goods that are entering in-transit through Eritrea shall be reported straightaway under Article 13 of the Proclamation in writing at the nearest designated Customs office that is open for business.
- (2) Goods moving in-transit through Eritrea must be reported to customs on a cargo control document that indicates the final destination of the goods and pay any fees and charges applicable before the shipment proceeds through Eritrea.

#### **4. Time Limits For Storage**

- (1) In-transit goods that have not been removed from the customs office within 30 days after the day they were reported under Article 13 of the Proclamation are forfeited to the State at the termination of that period of time.
- (2) In-transit perishable goods that have not been removed from the customs station within 4 days after they were reported under Article 13 of the Proclamation are forfeited to the State at the termination of that period of time.

- (3) In-transit goods that have not been removed within the prescribed time because of delays caused by customs or any other government department are not to be forfeited to the State at the termination of the period of time indicated in sub-article (1) and (2) hereof.
- (4) In-transit goods originally destined for a foreign point may be entered for use in Eritrea subject to the provisions of this Regulation, the Proclamation and any other laws of Eritrea.

## **5. Security**

- (1) Every person who transports or causes to be transported in-transit goods through Eritrea shall give security at the point of entry into Eritrea to secure his compliance with the requirements of the Proclamation and the regulations respecting the transportation of the goods.
- (2) The security given under sub-article (1) hereof of this Article shall be in the form of;
  - (a) cash; or
  - (b) a certified cheque; or
  - (c) a bond approved by the Minister of Finance.
- (3) The movement of goods through Eritrea shall be subject to the Customs Proclamation and any other laws that regulate the transportation of goods.

## **6. Liability of the Transporter**

The transporter is liable for the duties owing on the goods until the chief officer of customs has been provided with evidence satisfactory to customs that the goods have left Eritrea. Failure to do so within 60 days from the time the goods start the in-transit journey will result in a demand to the surety company for payment of the duties owed or the cashing in of other forms of security, as applicable. In addition, all in bond privileges of the carrier may be withdrawn.

## **7. Effective Date**

These Regulations shall come into force on the date of their publication in the Gazette of Eritrean Laws.

Done at Asmara, this 22<sup>nd</sup> day of January, 2002

Berhane Abrehe  
Minister of Finance

## **PROCLAMATION No. 130/2003**

### **THE CIVIL AVIATION PROCLAMATION**

#### Preamble

**WHEREAS**, the role of an independent Civil Aviation Authority, which provides for the regulation and promotion of civil aviation, and which fosters its safe development, is considered vital to the socio-economic progress of the State of Eritrea;

**WHEREAS**, the State of Eritrea is a Signatory to the Convention on International Civil Aviation (Chicago Convention, signed at Chicago on 7 December 1944), and is obligated to adopt measures to insure safety through conformity with international standards in its safety oversight obligations;

**WHEREAS**, the fundamental elements of national safety oversight are legislation establishing and empowering a civil aviation authority in the State of Eritrea, and the promulgation of specific operating regulations for civil aviation;

## PART I. GENERAL

### Article 1. Short Title

This Proclamation may be cited as “The Civil Aviation Proclamation No. 130/2003”.

### Article 2. Definitions

In this Proclamation, unless the context otherwise requires:

- (1) **Accident.** An occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:
  - (a) A person is fatally or seriously injured as a result of being:
    - (i) In the aircraft; or
    - (ii) In direct contact with any part of the aircraft, including parts which have become detached from the aircraft; or
    - (iii) Directly exposed to jet blast;
  - (b) The aircraft sustains damage or structural failure which:
    - (i) Adversely affects the structural strength, performance or flight characteristics of the aircraft; and
    - (ii) Would normally require major repair or replacement of the affected component;  
*Except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tires, brakes, fairing, small dents or puncture holes in the aircraft skin; or*
  - (a) The aircraft is missing or is completely inaccessible.
- (2) **Aerial Work.** An operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.
- (3) **Aerodrome/Airport.** A defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft.
- (4) **Aircraft.** Any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface.

- (5) **Air Navigation.** The guidance of an aircraft from one place to another, and includes fixing the position of the aircraft in the airspace.
- (6) **Air Navigation Facility.** Any area, lights, apparatus or equipment for disseminating meteorological information, signaling, radio directional finding, radio communication or any other facility for guiding or controlling flight in the air or the landing and take-off an aircraft.
- (7) **Air Operator.** Any organization, which undertakes to engage in domestic or international Commercial Air Transport, whether directly or indirectly or by a lease or any other arrangement.
- (8) **Air Operator Certificate (AOC).** A certificate authorizing an operator to carry out specified Commercial Air Transport operations.
- (9) **Air Traffic Control Service.** A service provided for the purpose of:
  - (a) preventing Collisions;
    - (i) between aircraft, and
    - (ii) on the maneuvering area between aircraft and obstructions; and
  - (b) expediting and maintaining an orderly flow of air traffic
- (10) **Air Traffic Management (ATM).** A broadly defined function which includes air traffic control services, air traffic flow management and air space management. Its objective is to enable aircraft operators to meet their planned times of arrival and departure and adhere to preferred flight profiles.
- (11) **Air Transport Service.** The public carriage by aircraft of passengers, package, cargo and mail, separately or in combination, for remuneration or hire.
- (12) **Airman.** This term refers to:
  - a. Any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, or who navigates an aircraft while the aircraft is underway;
  - b. Any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, and any individual in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or appliances; or
 Any individual who serves in the capacity of flight operations officer.
- (13) **Airworthiness.** The ability of an aircraft, with all its necessary components and accessories, to operate safety.
- (14) **Air Traffic Services (ATS) Route.** A specified route designed for channeling the flow of traffic as necessary for the provision of air transport services.
- (15) **Authority.** The Civil Aviation Authority.
- (16) **Commercial Air Transport.** An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire, including any payment,

consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected by any person for the use of an aircraft;

- (17) **Civil Aircraft.** Any aircraft other than a state or public aircraft.
- (18) **Dangerous Goods.** Articles or substances which are capable of posing significant risk to health, safety or property when transported by air.
- (19) **Director General.** The Director of Civil Aviation Authority, appointed under this Proclamation.
- (20) **Foreign Aircraft.** Any aircraft not registered in the State of Eritrea.
- (21) **General Aviation.** An aircraft operation other than a Commercial Air Transport operation or an aerial work operation.
- (22) **ICAO.** Abbreviation for the International Civil Aviation Organization.
- (23) **Investigation.** A process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and, when appropriate, the initiation of safety programs.
- (24) **Minister.** The Minister of transport and Communications of the State of Eritrea.
- (25) **Navigable Airspace.** The airspace above the minimum altitudes of flight prescribed by regulations under this Proclamation and includes airspace needed to insure safety in the take off and landing of aircraft.
- (26) **Operator.** A person, organization or enterprise engaged in or offering to engage in an aircraft operation.
- (27) **Person.** Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative of these entities.
- (28) **Prohibited Area.** An airspace of defined dimensions, above the land areas or territorial waters of the State of Eritrea, within which the flight of aircraft is prohibited.
- (29) **Public Aircraft.** An aircraft used exclusively in the service of any government or of any political jurisdiction thereof, including the Government of Eritrea, but not including any government owned aircraft engaged in operations, which meet the definition of Commercial Air Transport operations.
- (30) **Regulatory Document.** Any document issued by the Authority, including permits, technical standards, safety/security bulletins, fares/rates, operational manuals, certificates and licenses and any other approvals and documents issued by the Authority.
- (31) **Restricted Area.** An airspace of defined dimensions above the land areas or territorial waters of the State of Eritrea, within which the flight of aircraft is restricted in accordance with certain specified conditions.

- (32) **Scheduled Air Services.** Services provided by flights scheduled and performed for remuneration according to a published timetable, or so regular or frequent as to constitute a recognizably systematic series, which are open to use by members of the public; extra revenue flights occasioned by over-flying traffic from scheduled flights; and primarily revenue flights on planned new air services.
- (33) **State.** All the territories of Eritrea, including the land, islands, territorial waters and the air space above them.

### **Article 3. Scope**

- (1) This Proclamation provides the legal basis for the establishment of the Civil Aviation Authority of Eritrea, referred to in this Proclamation as the “Authority”.
- (2) This Proclamation establishes the Authority under the Director General of the Civil Aviation Authority, referred to as the “Director General” in this Proclamation, and defines both the duties of, and the authority granted to, the Director General.
- (3) The Director General shall be appointed by the government of the State of Eritrea, and shall be responsible for all matters pertaining to Air Transport and related services in Eritrea, and for the administration of this Proclamation.
- (4) This Proclamation also mandates various functions of the Authority, including the management of Air Navigation Facilities, and the regulation of Air Traffic Control Services, Air Transport Services, Aviation Security Services and any other aviation functions deemed necessary by the Director General.
- (5) This Proclamation gives due consideration to the bilateral agreements between the State of Eritrea and foreign countries, and to relevant treaties and conventions recognized by the State of Eritrea, including the ICAO Chicago Convention and the ensuing Annexes. The Annexes define safety-relevant standards and recommended practices.

### **Article 4. Authority and Responsibility of the Director General**

- (1) The Director General shall be responsible for the exercise of all powers and the discharge of all duties of the Authority and shall control over all personnel and activities of the Authority.
- (2) The Director General may elect, employ, and appoint such officers, employees, consultants, attorneys, and agents as shall be necessary to carry out the provisions of this Proclamation, and to define their authority and duties. No officer, employee, or attorney of the Authority shall have a monetary interest in or over any stocks and bonds of any air transport enterprise.

- (3) The Director General may, subject to such regulations, supervision, and review as may be prescribed, authorize the performance by any officer, employee, or administrative unit under the Director General's jurisdiction of any function under this Proclamation.
- (4) The Director General is authorized to delegate any assigned powers and duties to any properly qualified private person, subject to such regulation, supervision, and review as may be prescribed. However, the Director General shall ensure that such functions are not delegated in such a way that air operators, aerial work or general aviation operators and maintenance facilities, in effect, regulate themselves.
- (5) The responsibilities of the Director General shall include:
  - (a) General
    - (i) Implement and enforce this Proclamation as well as related national laws and regulations.
    - (ii) Propose amendments to this Proclamation to conform to changes that enhance aviation development and safety.
    - (iii) Investigate, examine and report on the operation and development of commercial air services in, to or from Eritrea;
    - (iv) Provide for the publications issued under this Proclamation in such form and manner as may be best adapted for public information and use;
    - (v) Promote air transport services by such means as the Director General considers appropriate, and undertake such other activities in relation to air transport services as the Director General considers appropriate, or as the Minister of Transport and Communications directs;
    - (vi) Cooperate with officers of the State on all matters relating to the national defense;
  - (b) Development and Maintenance of Resources
    - (i) Plan, develop, construct, maintain and operate domestic and international aerodromes and establish and provide other facilities and services relating to air transport services;
    - (ii) Undertake and cooperate with persons undertaking such projects, technical research, study or investigation as in the opinion of the Director General will promote the development of air transport services;
    - (iii) Promote fair competition and efficient market conditions in the air transport sector of the national economy;
    - (iv) Promote the development of national human resources for the aviation industry within Eritrea through the establishment and certification of aviation training centers;

- (c) Regulations and Enforcement
  - (i) Develop, issue and maintain regulatory documents to implement Air Navigation and Air Transport systems including but not limited to Communications, Navigation and Surveillance/Air Traffic Management in Eritrea in conformity with ICAO standards;
  - (ii) Formulate, develop, issue update regulatory documents and legal notices for the registration, certification and licensing of aircraft, aerodromes, personnel, air transport services and related facilities;
  - (iii) Establish and provide facilities and services for the collection, publication or dissemination of information relating to air transport services and enter into arrangements with any person or branch of government for the collection, publication and dissemination of that information;
- (d) Licensing
  - (i) Issue, renew, validate, endorse, suspend or revoke licenses, permits and certificates in accordance with the provisions specified in the regulatory documents;
  - (ii) Inspect and grant approval for maintenance organizations, aviation training institutions, air traffic services (equipment and facilities), aerodrome, air operators and air travel agencies;
  - (iii) Inspect and license civil aviation training centers, which promote the aviation human resources of Eritrea.
- (e) Safety
  - (i) Prevent the unlawful interference of aircraft operations by anyone, and the placement or removal of any objects which, in the opinion of the Director General, may jeopardize continued safe operation of flights;
  - (ii) Coordinate, promote and facilitate the establishment of a National Aviation Security Program;
  - (iii) Develop and implement mechanisms for aviation emergency services which prevent and minimize the occurrence of accidents and incidents;
  - (iv) Conduct safety oversight programs in the State where and when deemed necessary;
  - (v) Coordinate and facilitate search and rescue operation for any aircraft;
  - (vi) Investigate all matters concerning aviation safety;
- (f) Navigation
  - (i) Define and establish the navigable air space of Eritrea;

- (ii) Identify Air Traffic Services Routes to be used within and across Eritrea and prescribe the conditions of their use;
  - (iii) Establish, provide, maintain and enhance a system of Air Traffic Management to ensure the safety, economy and security of national and international air navigation within and across the State of Eritrea;
  - (iv) For the purposes of providing aviation weather services that will ensure the safety, regularity and efficiency of aircraft operation, enter into arrangements with any branch of the Government of Eritrea that is capable of, and responsible for providing those services or, where those arrangements cannot be made, enter into arrangements with any person or organization with respect to the provision of those services in such form and manner and at such places as the Director General considers necessary;
- (g) Aircraft and Accessories
- (i) Control and manage all aircraft and equipment necessary for the conduct of any services in the State;
  - (ii) Control and regulate the manufacture, assembly, possession, use, operation, sale, import and export of any aircraft and spare parts;
- (h) International Obligations
- (i) Act consistently with any obligations assumed by the State under any international treaty, convention and agreement that may be in force between the State and any foreign countries;
  - (ii) Take such action as may be necessary to protect by international regulation or otherwise the rights of Eritrea in international air transport services;
  - (iii) Cooperate or enter into administrative, bilateral or multilateral arrangements with civil aviation authorities of other governments, foreign states and international organizations with respect to any matter relating to air transport services;
- (i) Fees, Fares and Tariffs
- (i) Coordinate and supervise the review, initiation, regulation and approval or revocation of fares, tariffs and rates on civil aviation and non-civil aviation services and facilities;
  - (ii) Regulate and control aviation services (fuel supply, travel agencies, handling agencies, aircraft concessionaires) including airport charges and air navigation service charges and related insurance premiums.

## **Article 5. Powers of the civil aviation authority**

- (1) The Authority shall have the power to perform such acts, to conduct such investigations, to issue and amend such orders, and to make and amend such general or special rules, regulations, and procedures pursuant to and in accordance with the provisions of this Proclamation, as the Director General shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and duties assigned under this Proclamation.
- (2) The Authority shall have the power to utilize land and other facilities, provided, however, that due compensation is paid for buildings, crops and plants so removed by the Authority as deemed necessary.

## **PART II. AERODROMES AND AIR NAVIGATION SERVICES**

### **Article 6. Aerodromes**

The Director General shall have the sole authority to designate, regulate, specify, inspect and certify the relevant type, category and related classification of an airport/aerodrome in conformity with International Civil Aviation Organization standards and specifications.

### **Article 7. Air Navigation Facilities and Services**

The Authority shall have sole authority to:

- (1) Regulate, control and specify the category and conditions of installation, operations, inspection, calibration and maintenance of navigation facilities within the State of Eritrea, in conformance with the details of such specifications as indicated in Aeronautical Information Publication of Eritrea;
- (2) Regulate, control, and specify regulations, classifications and conditions for the provision of air navigation services, aeronautical information and charting services including aeronautical meteorology, and search and rescue service in conformity with the ICAO Standards and Recommended Practices.

## **PART III. AIR TRAFFIC MANAGEMENT AND AIR TRANSPORT**

### **Article 8. Air Traffic Management**

- (1) Aircraft movement to or from and across the State of Eritrea shall be governed by rules, regulations and procedures of the Authority, in congruence with the ICAO Standards and Recommended Practices.
- (2) No foreign aircraft shall be permitted to either over-fly or operate to or from Eritrea unless it receives a written authorization from the Authority on the basis of bilateral or multilateral agreements and/or under conditions specified by the laws of Eritrea.
- (3) The Director General is authorized to designate, specify, coordinate and publish Prohibited, Danger, and Restricted areas and enforce the implementation thereof in cooperation with other government agencies.
- (4) No aircraft shall conduct aerial work or drop anything from the air or in the maneuvering area unless authorized by the Authority in writing under conditions specified thereon.
- (5) In exercising the authority granted herein, and discharging the duties imposed by this Proclamation, the Authority shall give full consideration to the requirements of national defense, the requirements of commercial and general aviation and to the right of transit through Eritrea's navigable airspace.

#### **Article 9. Air Transport Services**

- (1) The Director General is authorized to issue Air Operator Certificates and to establish minimum safety standards for operations by an Air Operator to which any such certificate is issued.
- (2) Air transport regulations, including but not limited to transport of goods or baggage, liability in respect of passenger transport and the liability of the person transporting the goods or baggage shall be governed by the Commercial Code of Eritrea or by any relevant Convention to which Eritrea may be a party.
- (3) The Director General shall co-ordinate, regulate and control facilitation programs and activities at major airports.
- (4) The Director General shall regulate, coordinate and implement a mechanism for environmental control at airports.

#### **Article 10. Aviation Security**

- (1) The Director General may prescribe such other rules and regulations requiring such practices, methods, and procedures as the Director General may find necessary to protect persons and property aboard aircraft operating in air transport services against acts of criminal violence and aircraft piracy.
- (2) For the purposes of protecting passengers, crew members, aircraft and aerodromes and other aviation facilities, preventing unlawful interference with civil aviation and ensuring that appropriate action is taken where that

interference occurs or is likely to occur, the Authority may make regulations respecting aviation security.

- (3) For the purposes of protecting passengers, crew members, aircraft and aerodromes and other aviation facilities and preventing unlawful interference with civil aviation, no operator of an aircraft registered outside Eritrea shall land the aircraft at an aerodrome in Eritrea unless the aircraft and all persons and goods on board the aircraft have been subjected to security measures that are acceptable to the Director General.
- (4) The Director General may institute, maintain and carry out, at aerodromes, on aircraft and in respect of any aviation facility or service, in lieu of or in addition to the security measures instituted, such security measures as the Director General considers necessary for those purposes.

## **PART IV. SAFETY REGULATIONS OF CIVIL AIR TRANSPORT**

### **Article 11. General Duties and Powers**

- (1) The Director General shall have the power and duty to promote safety of flight of civil aircraft in civil air transport by prescribing and revising from time to time as necessary:
  - (a) Reasonable rules and regulations implementing, at a minimum, all Standards of the Annexes to the ICAO Chicago Convention;
  - (b) Such other reasonable rules, regulations, or minimum standards governing other practices, methods, and procedures as the Director General may find necessary to provide adequately for safety in civil aviation.
- (2) In prescribing standards, rules, and regulations and in issuing certificates under this Proclamation, the Director General shall take into consideration the obligation of air operators to perform their services with the highest possible degree of safety in the public interest.
- (3) All rules and regulations promulgated by the Director General under sub-article (1) of this article shall, in the opinion of the Director General, be deemed necessary to promoting aviation safety or to protect public interest.
- (4) The Director General shall have the power to issue regulatory documents (certificates, permits, licenses and other authorizations) to persons engaged in air transport services, including:
  - (a) Air operator certificates;
  - (b) Aircraft registration certificates;
  - (c) Airman certificates;
  - (d) Airworthiness certificates;

- (e) Training Centers and Approved Maintenance Organization certificates;
- (f) Approval of Foreign Air operators.

## **Article 12. Air Operator Certificate**

- (1) An operator or a person must possess, as appropriate, the relevant operating certificate issued or validated by the Director General if the operator or person wishes to engage in air transport services and general aviation operations in Eritrea.
- (2) The Director General is hereby authorized to issue air operator certificates and to establish minimum safety standards for the operation of the air operator to which any such certificate is issued.
- (3) Any person desiring to operate as an air operator and who is a citizen of Eritrea may file with the Director General an application for an air operator certificate. If the Director General finds, after thorough investigation, that such person is properly and adequately equipped and has demonstrated the ability to conduct a safe operation in accordance with the requirements of this Proclamation and the rules, regulations, and standards prescribed there under, the Director General shall issue an air operator certificate to such person.
- (4) The Director General is authorized, in the discharge of certification and inspection responsibilities, to validate the actions of the civil authority of another State in lieu of taking specific action. The Director General shall ensure that, when validation is based on the actions of another country, there is no information to indicate that the authority of that country does not meet its obligations under the ICAO Chicago Convention regarding certification and ongoing validation of its air operators.

## **Article 13. Aircraft registration certificate**

- (1) The Director General will establish and maintain a system for the national registration of civil aircraft in Eritrea.
- (2) It shall be unlawful to operate a civil aircraft in Eritrea unless it is registered in Eritrea or is registered under the laws of a foreign country and is authorized to operate in Eritrea.
- (3) An aircraft shall be eligible for registration in Eritrea if and only if it is not registered in a foreign country and, unless otherwise permitted by the Director General by regulation, it is owned by:
  - (a) A citizen of Eritrea;
  - (b) A partnership that is not a citizen of Eritrea, of which each member is a citizen of Eritrea; or
  - (c) The Government of Eritrea, or a political sub-division thereof.

- (4) Upon request of the owner of any aircraft eligible for registration, the Director General shall register such aircraft and issue to the owner thereof a certificate of registration.
- (5) Applications for such certificates shall be in such form, be filed in such manner, and contain such information as the Director General may require.
- (6) Any certificate issued by the Authority may be in suspended or revoked by the Director General for any cause if the Director General finds such suspension or revocation to be in the public interest.
- (7) An aircraft shall acquire Eritrean nationality when registered under this Article. A certificate of registration issued under this Article shall not be considered evidence as to ownership in any proceeding under the laws of Eritrea in which ownership of the aircraft by a particular person is or may be in issue.
- (8) Recordation of Interests in Aircraft
  - (a) The Director General is hereby authorized to establish a national system for recording documents which affect title to or any interest in any civil aircraft registered in Eritrea and in any aircraft engine, propeller, appliance, or spare part intended for use on any aircraft registered in Eritrea.
  - (b) Upon the Director General establishing a recording system, no document affecting title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid, except between the parties thereto, unless it is recorded in that system.
  - (c) The validity of any document so recorded, unless otherwise specified by the parties thereto, shall be determined under the laws of Eritrea. The requirements for documents to be recorded shall be specified in regulations issued by the Director General.

#### **Article 14. Airman certificate**

- (1) The Director General is hereby authorized to issue airman certificates specifying the capacity in which the holder thereof is authorized to serve as airman in connection with aircraft.
- (2) Any person may file with the Director General an application for an airman certificate. If the Director General finds, after investigation, that such person possesses the proper qualifications for, and is physically able to, perform the duties pertaining to the position for which the airman certificate is sought, the Director General shall issue such certificate.
- (3) The certificate shall contain such terms, conditions, and tests of physical fitness, and other matters as the Director General may determine to be necessary to assure safety in civil aviation.
- (4) The Director General may, in lieu of such a finding, consider prior issuance of an airman certificate by a foreign country as satisfactory evidence, in whole or

in part, that the airman possesses the qualifications and physical ability to perform the duties pertaining to the position for which the airman certificate is sought, provided that the foreign country is a signatory to the International Civil Aviation Chicago Convention and is fulfilling its obligations under the Chicago Convention with respect to the issuance and currency of Airman certificates.

- (5) Notwithstanding the provisions of sub-article (4) of this Article, the Director General may prohibit or restrict, in such manner as the Director General shall deem appropriate, the issuance of airman certificates to citizens of foreign countries.
- (6) Each airman certificate shall:
  - (a) Be numbered and recorded by the Director General;
  - (b) State the name and address of, and contain a description of, the person to whom the certificate is issued; and
  - (c) Be titled with the designation of the airman privileges authorized.

#### **Article 15. Airworthiness Certificate**

- (1) The owner of any aircraft registered in Eritrea may file with the Director General an application for an airworthiness certificate for such aircraft.
- (2) If the Director General finds that the aircraft conforms to the appropriate type certificate, and, after inspection, finds that the aircraft is in condition for safe operation, the Director General shall issue an airworthiness certificate.
- (3) The Director General may prescribe in an airworthiness certificate the duration of such certificate, the type of service for which the aircraft may be used, and such other terms, conditions, limitations, and information as are required in the interest of safety. The Director General shall record each airworthiness certificate issued by the Director General.
- (4) The Director General may prescribe the terms under which additional airworthiness approvals for the purposes of modification may be made.

#### **Article 16. Training Center and Approved Maintenance Organization Certificate**

- (1) The Director General is authorized to provide for the examination and rating of:
  - (a) Training Centers giving instruction in flying or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors;

- (b) Approved Maintenance Organizations or shops for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction therein.
- (2) The Director General is hereby authorized to issue certificates for such Training Centers and Approved Maintenance Organizations.

### **Article 17. Amendment, Modification, Suspension and Revocation of Certificate**

- (1) The Director General may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, training centers, or approved maintenance organization, or any civil airman holding a certificate issued under this proclamation.
- (2) If, as a result of any such re-inspection or re-examination, or if, as a result of any other investigation made by the Director General, the Director General determines that safety in civil aviation or Commercial Air Transport and the public interest requires, the Director General may issue an order amending, modifying, suspending, or revoking, in whole or in part, any certificate issued under this Proclamation.
- (3) Prior to amending, modifying, suspending, or revoking any of the foregoing certificates, the Director General shall advise the holder thereof as to any charges or reasons relied upon by the Director General for the proposed action and, except in cases of emergency, shall provide the holder of such a certificate an opportunity to answer any charges and be heard as to why such certificate should not be amended, modified, suspended, or revoked.
- (4) Any person whose certificate is affected by such an order of the Director General under this Article may appeal the Director General's order to the Judicial Review stipulated in Article 29 of this Proclamation and the Director General shall be made a party to such proceedings.
- (5) The filing of an appeal with the High Court of Eritrea shall stay the effectiveness of the Director General's order unless the Director General advises the court that an emergency exists and safety in civil aviation requires the immediate effectiveness of the order, in which event the court may order that the Director General's order shall remain effective pending judicial review.

### **Article 18. Prohibitions**

- (1) It shall be unlawful for any person to:

- (a) Operate in civil aviation any civil aircraft for which there is not currently in effect an Airworthiness Certificate, a Registration Certificate, a Radio License, and any other certificates as required by the Director General or in violation of the terms of any such certificate;
  - (b) Serve in any capacity as an airman in connection with any civil aircraft, aircraft engine, propeller, or appliance used or intended for use in civil aviation without an airman certificate authorizing that person to serve in such capacity, or in violation of any term, condition, or limitation of this certificate, or in violation of any order, rule, or regulation issued under this Proclamation;
  - (c) Employ for service in connection with any civil aircraft used in civil aviation an airman who does not have an airman certificate authorizing that person to serve in the capacity for which the person is employed;
  - (d) Operate as an air operator without an air operator certificate, or in violation of the terms of any such certificate;
  - (e) Operate aircraft in civil aviation in violation of any rule, regulation, or certificate issued by the Director General under this Proclamation; and
  - (f) While holding a certificate issued to a training center or approved maintenance organization as provided in this Proclamation, to violate any term, condition, or limitation thereof, to violate any order, rule, or regulation made under this Proclamation relating to the holder of such certificate.
- (2) On terms the Director General prescribes as being in the public interest, the Director General may exempt a foreign aircraft and airmen serving on the aircraft from sub-article (1) of this article. However, an exemption from observing air traffic regulations may not be granted.

## **Article 19. Approval Foreign Air Operator**

- (1) No foreign air operator shall engage in Commercial Air Transport within Eritrea unless there is in force a permit issued by the Director General.
- (2) The Director General is empowered to issue such a permit if the Director General finds:
  - (a) That the applicant is fit, willing, and able properly to perform international Commercial Air Transport and to conform to the provisions of this Proclamation and the rules, regulations, and requirements of the Director made pursuant to the Proclamation; and
  - (b) Either that the applicant is qualified, and has been designated by its government, to perform international Commercial Air Transport under the terms of an agreement with Eritrea, or that such transportation will be in the public interest.

- (3) Application for a permit shall be made in writing to the Director General and shall be in such form and contain such information as the Director General shall require.
- (4) Authority to Modify, Suspend or Revoke
  - (a) The Director General may alter, amend, modify, or suspend any such permit, in whole or in part, for failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such permit.
  - (b) Any interested person may file with the Director General a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a permit pursuant to paragraph (4)(a) of this Article.
- (5) The Director General may issue a permit to the applicant for such permit only if the applicant complies with regulations and orders of the director General governing the filing of an insurance policy or self-insurance plan approved by the Director General. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A permit does not remain in effect unless the foreign air operator complies with this Article.

## **Article 20. Regulatory Documents**

- (1) No regulatory document may be transferred and assigned to another person without the approval of the Authority.
- (2) A regulatory document shall be valid for such period as may be specified therein and shall be renewed as appropriate.

## **PART V. MISCELLANEOUS PROVISIONS**

### **Article 21. Orders, Rules and Regulations**

- (1) Except in emergency situations, all orders, rules, and regulations of the Authority shall take effect within such reasonable times as the Director General may specify, and shall continue in force until a further order, rule, or regulation, or for a specified period of time, as shall be prescribed in the order, rule, or regulation.
- (2) Whenever the Director General is of the opinion that an emergency requiring immediate action exists with respect to safety in civil aviation, the Director General shall have the power, either upon complaint or the Director General's initiative without complaint, at once, if the Director General so orders, without

answer or other form of pleading by the interested person or persons, and with or without notice, hearing or the making or filing of a report, to make such just and reasonable orders, rules, or regulations as may be essential in the interest of safety in civil aviation to meet such emergency; provided that the Director General shall immediately thereafter initiate proceedings relating to the matter giving rise to any such order, rule, or regulation.

- (3) The Director General shall have the power to suspend or modify orders, rules and regulations upon such notice and in such manner as the Authority shall find proper.
- (4) The Director General may grant exemptions from the requirements of observing any rule or regulation prescribed under this Proclamation if the Director General finds such action would be in the public interest.
- (5) Except as provided in paragraph (4) hereof, the Director General may not grant exemptions from the requirements of this Proclamation.

## **Article 22. Accident Investigations**

- (1) Reporting of Accidents
  - (a) The Director General shall promulgate rules and regulations governing the notification and reporting of accidents and incidents
- (2) General Authority to Investigate
  - (a) Except as provided in sub-article (4) of this Article, the Director General shall have the power and shall investigate, or arrange by contract or otherwise for the investigation of, accidents involving civil aircraft occurring in Eritrea and civil aircraft registered in Eritrea occurring in the territory of any foreign country for the purpose of determining the facts, conditions, and circumstances relating to each accident and the probable cause thereof.
  - (b) The authority shall participate in the investigation of accidents involving aircraft registered in Eritrea and occurring in the territory of a foreign country, consistent with any treaty, convention, agreement, or other arrangement between the State of Eritrea and the country in whose territory the accident occurred.
- (3) Accident Prevention
  - (a) The Authority shall take any corrective actions, which, on the basis of the findings of the accident investigations authorized under this Section, that, in the judgment of the Authority will tend to prevent similar accidents in the future.
- (4) Investigation of Accidents within Military Sites
  - (a) Notwithstanding any other provision of this Article, and, the investigation of an accident involving aircraft occurring within military sites in Eritrea or an accident involving solely an aircraft of the armed forces of any

foreign country occurring in Eritrea shall be the responsibility of the military. For the purposes of this sub-article, the term “military sites” means those areas within which are under the control of the military of Eritrea or the military of another country.

- (5) Use as Evidence
  - (a) No part of any report or reports of the Authority relating to any accident or the investigation thereof, shall be admitted as evidence or used in any suit or action for damages ensuing out of any matter mentioned in such report or reports.

### **Article 23. Right of access for inspection**

- (1) The Director General shall be authorized access to civil aircraft without restriction wherever they are operated within Eritrea for ensuring that those aircraft are airworthy and being operated in accordance with this Proclamation, regulations issued under this Proclamation, and applicable ICAO Annexes.
- (2) The Authority shall have access to civil aircraft registered in the State of Eritrea without restriction wherever they are operated outside of Eritrea for the purposes of ensuring that these aircraft are airworthy and are being operated in accordance with this Proclamation and applicable regulations and directives.
- (3) The Director General is authorized unlimited access by Eritrea to any facility or aerodrome or any place deemed necessary for the completion of his investigation or inspection in order to determine that those operations are conducted in accordance with this Proclamation and applicable regulations and directives.
- (4) Power to detain:
  - (a) The Director General has the power to restrict or prevent a flight in situations where:
    - (i) The aircraft may not be airworthy; or
    - (ii) The airman may not be qualified or physically or mentally capable for the flight; or
    - (iii) The operation would cause imminent danger to persons or property on the ground.
  - (b) The Director may take such steps as are necessary to detain such aircraft or airmen.

## **Article 24. Damage, liability and loss of aircraft**

- (1) When an aircraft in movement causes damage to another aircraft in movement, the provisions of the Civil Code of Eritrea shall govern the liability of air operator and its agents or employees.
- (2) When an aircraft requires assistance as part of an accident/incident recovery or as part of an aircraft search and rescue operation, the wreckage of an aircraft, the missing aircraft and the recovery of any persons on board the missing aircraft shall be governed by National and ICAO regulations on this subject.
- (3) The operator of an aircraft shall be held liable for any damage caused to third parties on the ground by the movements of the aircraft or by any persons or objects falling therefrom. In the case of hire of an aircraft, the liability for damage shall be determined in accordance with the contract of hire.
- (4) Any damage caused to persons or property on the ground by goods jettisoned in cases of “force majeure”, by ballast jettisoned in accordance with regulations or by any other specifically authorized jettisoning, liability shall be governed by the provisions sub-article (3) hereof.

## **Article 25. Fees, levies and charges**

- (1) Fees for regulatory documents and other administrative services, which are rendered pursuant to or under this Proclamation, shall be paid in the amount as specified in the regulatory documents.
- (2) Services provided to users at any aerodromes open to public air traffic shall give rise to the payment of a remuneration which shall take the form of charges collected for the benefit of the service provider. The scales of such charges and the manner in which they shall be collected shall be established by special regulations and disseminated through Aeronautical Information Publications.

## **Article 26. Sanctions**

- (1) The Director General may impose one or more of the following sanctions against a person who fails to comply with relevant provisions of this Proclamation or rules, regulations and directives which ensure from this Proclamation.
  - a. A warning notice which requires appropriate rectification within a specified period of time;
  - b. A fine, whose amount shall be determined by the Director General, if the person receiving the warning notice fails to comply with the specified rectifications within the specified period of time; or

- c. Reduction of the period of the validity of the regulatory document or documents issued to the person in question; or
  - d. Suspension of the regulatory document or documents issued to the person in question; or
  - e. Revocation of the regulatory document or documents issued to the person in question.
- (2) Any person who is the subject of such a sanction of the Director General under this Article may submit a written appeal to the Director General within fifteen days from the effective date of the sanction.

### **Article 27. Revocation of the regulatory document**

- (1) In addition to the circumstances described in Article 25 above, the regulatory document may be revoked if the person to whom the documents are issued:
- (a) Agrees in writing with the Authority that the document should be revoked; or
  - (b) Enters into bankruptcy; or
  - (c) Ceases to carry on his business.

### **Article 28. Prohibitions**

- (1) No person shall use, operate, sell, import, export or manufacture any aircraft unless an authorization to do so has been granted by the Authority in writing.
- (2) An aircraft shall not carry explosives, arms and ammunitions, except in conformity with conditions specified by the Director General in regulations.
- (3) An aircraft shall not transport and use photographic equipment, unless a written approval has been granted by the Director General.
- (4) An aircraft shall not carry dangerous goods unless the relevant provisions in Annex 18 to the ICAO Chicago Convention and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air have been complied with.

### **Article 29. Offences and penalties**

- (1) Any person who takes the following actions shall be guilty of an offence:
- (a) Contravenes or fails to comply with the provisions of this Proclamation or of any regulations made thereunder;
  - (b) Performs any duty or exercises any functions for which a license or rating is required under any regulation made under this Proclamation without holding the appropriate license or rating;

- (c) Makes a false or deceptive statement in connection with any application for license, rating or certificate issued by any regulation under this Proclamation;
  - (d) Makes, procures or assists in the making or procuring of any false or deceptive entry in any document, book or record made or kept under any regulation made under this Proclamation;
  - (e) Destroys, mutilates or alters any document, book or record made or kept under any regulation made under this Proclamation;
  - (f) Obstructs or hinders an investigation carried on under any regulations made under this Proclamation;
  - (g) Obstructs or impedes any authorized person acting in the performance or exercise of his duties, powers or functions conferred on him by any regulations made under this Proclamation; and
  - (h) Does or attempts to do anything likely to imperil the safety of an aircraft or its passengers or crew;
- (2) The owner, operator, hirer or airman of an aircraft, which flies in contravention of any regulation made under this Proclamation, shall be guilty of an offence.
- (3) Any person guilty of an offence under this Proclamation shall be penalized in accordance with the Penal Code of the state of Eritrea.

### **Article 30. Judicial Review**

- (1) The High court shall set aside a decision which it finds is:
- (a) Arbitrary, an abuse of discretion, or otherwise not consistent with law; or
  - (b) Not made consistent with required procedures; or
  - (c) Unsupported by substantial evidence.
- (2) The decision of the High Court shall be final.

### **Article 31. Effective Date**

This Proclamation shall enter into force on the day of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 15<sup>th</sup> day of January, 2003

Government of the State of Eritrea.

