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***KENYA GAZETTE SUPPLEMENT***

**MARSABIT COUNTY ACTS, 2017**

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**THE MARSABIT COUNTY TRANSPORT ACT, 2017**

**No. 2 of 2017**

*Date of Assent: 18th May, 2017*

*Date of Commencement: By Notice*

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**THE MARSABIT COUNTY TRANSPORT ACT,  
2017**

**AN ACT of County Assembly of Marsabit to provide  
for matters relating to traffic, parking, street  
lighting, public road transport, and for connected  
purposes**

**ENACTED** by the County Assembly of Marsabit as follows—

**PART I— PRELIMINARY**

1. This Act may be cited as the Marsabit County Transport Act, 2017. Short title.

2. In this Act— Interpretation.

“authorised person” means any person responsible for carrying out any duty or function or delegated to carry out any duty or function in terms of this Act.

“certificate” means operating Authority issued under this Act;

“county roads” means any road classified as a county road under the Kenya Roads Act, 2007; Act No. 2 of 2007.

“director” means the County Director for the time being responsible for matters relating to transport;

“hazardous materials” means a substance or material in a quantity and form which may pose an unreasonable risk to health, safety and property when transported in commerce by all modes;

“motor vehicle” includes a vehicle, bus, tractor, motorcycle, truck trailer or semi-trailer, propelled drawn by mechanical power and used upon public roads in the transportation of property or passengers, but does not include any locomotive or car operated exclusively on a rail, rails or track;

“owner” means the registered owner of the motor vehicle or his agents and includes any person in actual possession of the motor vehicle;

“ranking facility” includes—

- (a) a place upon a public road from which a public transport service may ply for hire or convey

and drop off passengers; and

- (b) any place demarcated or designated for the exclusive parking of specific public transport vehicles by a road traffic sign.

“executive committee member” means the Member of the Executive Committee for the time being responsible for roads and transport;

“person” includes a company, corporate body (whether incorporated by or under statute or statutory authority), association, fund, natural person, partnership and a registered scheme;

“private land” has the meaning assigned to it in the Constitution;

“public land” has the meaning assigned to it in the Constitution;

“prescribed” means prescribed under this Act; and

“regulations” means Regulations made under this Act.

3. The objective of this Act is to—

Objectives of the Act.

- (a) provide for adequate, and efficient county transport facilities and services at reasonable cost to the people; and
- (b) to promote public safety in the transport system within the county.

4. The Executive Committee Member shall create collaborative linkages with national government institutions and transport departments of neighboring counties to ensure a co-ordinated implementation and master planning of the transport sector.

Obligation to collaborate.

**PART II—ADMINISTRATION OF THE TRANSPORT SECTOR**

5. (1) There is established the Directorate of Transport in the County Department responsible for roads and county transport.

Directorate of transport.

(2) The directorate shall be headed by a Director who shall be appointed by the County Public Service

Board through a competitive and transparent recruitment process.

6. The County Public Service Board shall appoint such officers and other staff as may be necessary for the enforcement of the provisions of this Act.

Appointment of staff.

7. The Directorate shall—

Functions, powers and duties of the directorate.

- (a) operate and maintain county roads, parking facilities, street lights, bridges and related infrastructure;
- (b) manage county transport facilities and services;
- (c) collaborate with National Government institutions and transport departments of neighboring counties to ensure a co-ordinated management of the transport sector;
- (d) to promote safety in all forms of county public transport including in the transportation of hazardous material;
- (e) facilitate civic education to the general public on road use and safety;
- (f) carry out such activities, and undertake such projects, as may be necessary for the execution of its functions; and
- (g) perform such other functions as may be assigned to it by this Act or any other written laws.

8. In the exercise of the powers and the performance of its functions the directorate shall—

Standard of service by the directorate.

- (a) be bound in its respective activities by the provisions of the Constitution, relevant national laws, and the provisions of this Act;
- (b) demonstrate commitment, technical, infrastructural and administrative competence in carrying out its mandate; and
- (c) adopt the principle of quality service and formulate relevant scheme of training for all categories of staff to uphold that principle.

9. (1) An authorized officer may, in enforcing the provisions of this Act, at any reasonable time and without prior notice—

Rights of entry.

- (a) enter a public transport service facility to inspect the facility; and
- (b) make enquiries from a person connected with such facility.

(2) A person who prevents or attempts to prevent an authorized officer from undertaking his duties under this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

10. (1) A person shall not drive a motor vehicle on a county road—

Operating Licence.

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of the Traffic Act or any other relevant law; and
- (b) unless he or she keeps such licence or document or any other document with him or her in the motor vehicle.

(2) An authorized officer may require a person to produce the license within twenty-four hours.

(3) A person who contravenes the provisions of this section commits an offence and is in addition to any other punishment prescribed by any other law, be liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

11. (1) A person shall not use force, intimidation, threats or by any other means, prevent or try to prevent—

Preventing engagement of a public transport vehicle.

- (a) any person from boarding a public transport vehicle; or
- (b) the driver of a public transport vehicle from taking on passengers.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to

a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

12. (1) A person who is in charge of a public transport vehicle shall not knowingly convey a person or thing or allow that person or thing to be conveyed in such vehicle, whether or not the public transport vehicle has been engaged, if that person or thing—

Conveying dangerous or offensive articles in public transport vehicles.

(a) is not permitted to be conveyed in terms of an existing law; or

(b) reasonably appears to have been exposed to or contaminated by an infectious or contagious disease.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

13. (1) A person who is in charge of a public transport service vehicle, whether as a driver or as a conductor, shall not harass passengers in the vehicle, whether verbally or physically.

Harassment of passengers.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

14. (1) A person shall not—

(a) board a public transport vehicle until all persons desiring to disembark from such vehicle have done so;

(b) board a public transport vehicle where the number of passengers would be in excess of the total number of passengers which it is authorised to carry; or

(c) board or alight or attempt to board or disembark from any public transport vehicle whilst such vehicle is in motion.

Boarding and disembarking from public service vehicles.

(2) A person who contravenes the provisions of this

section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

15. (1) The directorate shall establish ranking facilities in the county and may further erect or cause to be erected a queue sign or queuing barrier in any suitable form for the purpose of queuing.

Queues at public transport facilities.

(2) All passengers intending to enter any public transport vehicle at an established ranking facility or stopping place must queue from the point at which it is indicated that such public transport vehicle will leave.

(3) Where no queue sign has been erected, passengers waiting to enter a public transport vehicle must form themselves into a queue not exceeding two abreast or in a single file when required to do so by an approved public transport conductor or authorised officer or a uniformed traffic police on duty.

(4) A passenger may only enter a public transport vehicle when he or she gets to the front of the queue.

(5) Every passenger queuing must comply with all the instructions given by a public transport conductor, authorised officer or a uniformed traffic police on duty.

(6) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

16. (1) The Directorate shall, in consultation with the relevant authorities, ensure the erection of road bumps and road signs on any area of the road as may be necessary.

Road bumps and road signs.

(2) For the purposes of this section, “relevant authorities” means the Kenya National Highways Authority, the Kenya Rural Roads Authority and the National Transport and Safety Authority.

### **PART III—DUTIES AND OBLIGATIONS OF PASSENGERS**

17. A passenger must pay the prescribed fare for the use of a public transport motor vehicle.

Payment of fare.

18. (1) If a public transport vehicle becomes defective or, for any reason whatsoever, is unable to proceed, the passengers must disembark from the defective vehicle.

Rights of a passenger when the vehicle becomes defective.

(2) Where the passengers have disembarked from the defective motor vehicle they are entitled to be refunded such amount of fare for the remainder part of the journey.

19. (1) The following actions are prohibited on a public transport vehicle—

Actions prohibited on a public transport vehicle.

- (a) smoking;
- (b) playing offensive or excessively loud music;
- (c) offending others by using language which constitutes hate speech, incitement to violence, propaganda for war or advocacy of hatred under Article 33(2) of the Constitution;
- (d) interfering with the comfort of another passenger by touching their person for no good cause or by otherwise doing any provocative act or thing to them;
- (e) damaging anything and interfering with the equipment of the public transport vehicle;
- (f) forcibly causing the driver to deviate from his route;
- (g) endangering the life of another passenger;
- (h) interfering with the actions of the driver; and
- (i) showing or displaying any pornographic material.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

20. (1) The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must—

Property left in public transport vehicles.

- (a) deliver that property to the person who left it behind; or
- (b) if he or she is unable to deliver that property to the person who left it behind, take the property, as soon as possible, to the lost property office of his or her employer or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

21. (1) A person shall not park or allow a public transport vehicle to park in a stopping place other than a place designed for public transport vehicles.

Obstruction and disruption of traffic.

(2) A person shall not cause a public transport vehicle to traverse a pedestrian crossing, when stopping to enable passengers to be picked up or dropped off.

(3) A person shall not cause a public transport vehicle to park in a demarcated parking place any longer than is required to enable waiting passengers to be picked up or dropped off.

(4) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding one month, or to both.

22. (1) A pedestrian shall cross a public road only at a pedestrian crossing or an intersection or at a distance further than fifty metres from such pedestrian crossing or intersection.

Duties of pedestrians.

(2) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.

(3) Where a traffic-control light signal, which embodies pedestrian signals, operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light

of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(4) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic-control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic-control light signal is displayed in the direction opposite to that in which he or she is proceeding.

(5) Where a traffic-control light signal, which embodies pedestrian signals, are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the greenlight of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.

(6) A pedestrian shall not carelessly, negligently or recklessly disregard, or endanger his or her own safety, or the safety of a person or vehicle using a public road.

(7) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

23. A person shall not use a sounding device or hooter of a vehicle on a public road except when such use is necessary in order to comply with the provisions of this Act or any other law or on the grounds of safety.

Use of a hooter.

24. (1) Subject to any other law, a person shall not drive a motor vehicle on a public road while holding, using or operating a cellular or mobile telephone or any other communication device in one or both hands or with any other part of the body unless such a cellular or mobile telephone or other communication device is affixed to the vehicle or is part of the fixture in the vehicle and remains so affixed while being used or operated, or is specially adapted or designed to be affixed to the person of the driver as headgear, and is so used.

Prohibition on the use of a communication device while driving.

(2) An authorised officer may, in the public interest and safety of the public, confiscate and impound a hand

held communication device.

(3) The authorised officer shall, when confiscating any hand held communication device—

- (a) inform the owner of such communication device of the reasons of confiscating and impounding;
- (b) issue a receipt to the owner of such hand held communication device, stating the place at which such device may be claimed; and
- (c) follow all procedures contained in any law or policy of the County Government on the confiscation and impoundment of property.

(4) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

#### **PART IV— PROVISIONS ON PARKING AND RELATED MATTERS**

**25.** (1) A person shall not park or permit a vehicle to be parked on a public road contrary to a traffic sign or in a manner that impedes the flow of traffic.

Parking on a public road.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

**26.** (1) Unless required or permitted by this Act or by a traffic control device, or in compliance with the directions of a traffic officer, or to avoid conflict with other traffic, no person shall stop or park a vehicle—

Prohibited parking areas.

- (a) at an intersection nearer than ten (10) metres to the projection of the curb line immediately ahead or immediately to the rear;
- (b) within ten (10) metres on the approach to a stop sign or yield signs;
- (c) within five (5) metres of any fire hydrant, or when the hydrant is not located at the curb, within five (5) metres of the point on the edge of the roadway nearest the hydrant;

- (d) within ten (10) metres of the approach to a pedestrian crossing;
- (e) on a sidewalk;
- (f) facing oncoming traffic;
- (g) on any bridge or approach to any bridge;
- (h) in a passenger loading or unloading space posted as such by a traffic control device except when actually taking or discharging passengers;
- (i) on any portion of a public road posted as "No Parking";
- (j) on any land owned by the county which the county uses or permits to be used as a playground, recreation area, utility lot, or public park, except in such areas designated or posted for parking;
- (k) on any space posted as a fire lane except for emergency vehicles;
- (l) on any space posted for disabled persons parking unless such vehicle is designated as a disabled person's vehicle;
- (m) in a transit zone except a transit vehicle;
- (n) in such a manner so as to obstruct an emergency exit; or
- (o) in such a manner so as to obstruct the entrance or exit of a fire hall or ambulance station.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

27. Despite the provisions of this Act, the directorate may cause moveable signs to be posted on or near a public road to indicate "No Parking", or "Street Maintenance" and when so posted, such signs shall take precedence over all other traffic control devices.

No parking and street maintenance.

28. (1) A vehicle parked contrary to this act may be towed away at the owner's expense.

Towing away of vehicle.

(2) The directorate or any authorised person shall not be responsible for any damage that is caused on the motor vehicle when it is towed.

29. (1) A person shall not park a vehicle on any alley unless traffic control device otherwise permits, except for the following purposes—

Parking on alleys.

- (a) the loading or unloading of goods from a commercial vehicle for a reasonable period; or
- (b) the loading or unloading of goods other than a commercial vehicle for passengers from a vehicle reasonable period.

(2) Notwithstanding the provisions of subsection (1) above, a person, while loading or unloading passengers or goods, shall not park in such a manner as may obstruct the passage of other vehicles along the alley.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

30. A person shall not park a vehicle or permit a vehicle to be parked on private property without the permission or authorization of the owner of the private property or a person having lawful possession or control of the private property

Parking on private property.

31. (1) A person shall not park or permit to be parked, a trailer upon any public road unless the said trailer is attached to a vehicle by which it may be propelled or drawn and when so attached, the trailer shall be deemed part of the vehicle and subject to the provisions pertaining to vehicles.

Parking of trailers upon public roads.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

32. (1) Every operator of a cab or other public transport business in Marsabit County shall organize themselves into—

Taxi associations.

- (a) a registered self-help groups;
- (b) an incorporated company; or
- (c) a registered Sacco.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

33. Notwithstanding the establishment of a taxi zone on a roadway, any operator of a taxicab stopping or parking in such a zone shall comply with the requirements of this Act.

Parking on a taxi zone.

34. (1) A person shall not park or permit to be parked a vehicle that is not a cab, in an area posted as a taxi zone.

Compliance of this Act by taxicabs.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding three thousand shillings, or to imprisonment for a term not exceeding one month, or to both.

35. (1) When parking a vehicle on a roadway, a person shall park a vehicle—

Parallel parking.

- (a) with the sides of the vehicle parallel to the curb or edge of the roadway, and the right wheels of the vehicle not more than five hundred millimeters from the right curb or edge of the roadway; or
- (b) in the case of a one-way highway where parking on either side is permitted, with the sides of the vehicle parallel to the curb or edge of the roadway, the wheels that are the closest to a curb or edge of the roadway not more than five hundred (500) millimetres from that curb or edge, and the vehicle facing in the direction of travel authorized for the highway.

(2) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding three months, or to both.

**36.** When a sign indicates that angle parking is permitted or required and no parking guidelines are visible on the roadway—

Angle parking when no parking signs are visible.

- (a) a person may only park a vehicle with the vehicle's sides at an angle of between thirty (30) and sixty (60) degrees to the curb or edge of the roadway; and
- (b) in the case of a vehicle other than a motorcycle, with the nearest wheel not more than five hundred (500) millimetre from the curb or edge of the roadway; or
- (c) in the case of a motorcycle, with the nearest wheel of the motorcycle not more than five hundred (500) millimeters from the curb or edge of the roadway, and the motorcycle angled adjacent to the lane on which the motorcycle is parked.

#### **PART IV — COUNTY BUS TERMINALS**

**37 (1)** The Directorate shall designate county bus terminals for public service vehicles as it deems fit.

Designation of county bus terminal.

(2) The parking spaces within the designated county bus terminals shall be numbered and the limits of the parking spaces marked on the road by line studs or such other indication as the directorate may determine.

(3) Every county bus terminals shall be open air structures which will include loading berths, public toilets and sidewalk for pedestrians.

(4) Every county bus terminal shall be managed and supervised by a terminal supervisor recruited in accordance with provisions of section 7 of this Act and any other written law.

(5) Every person in a public service vehicle including the owner shall comply with and obey all lawful instructions, directions or orders given by a terminal supervisor for the purpose of controlling or supervising the county bus terminal.

**38. (1)** No driver of a public service vehicle when carrying passengers for hire or reward shall, without the prior written permission of the directorate, start or

Start and termination of a journey.

terminate any journey at any other place other than at a county bus terminal.

(2) Every owner of a public service vehicle shall publicly display the routes, the time and the bus fare to be paid by passengers at every county bus terminal.

(3) No driver of a public service vehicle when carrying passengers for hire or reward, once having departed from a county bus terminal, shall return to that county bus terminal until he has completed the scheduled journey in respect of such departure.

**39** (1) No public transport motor vehicle, while work carrying passengers for hire or reward, shall, without the prior written permission of the directorate, be parked in any place other than a county bus terminal.

Parking.

(2) Notwithstanding subsection (1), any public service vehicle may stand at any stopping place designated as a bus stop for the purpose of only —

- (a) picking up passengers on the outward journey for destinations outside the county bus terminal; or
- (b) setting down passengers from outside the county bus terminal on the onward journey.

(3) All public service vehicle within a county bus terminal shall be under the direction of a terminal supervisor and the drivers of any such motor vehicle shall at all times comply with and obey all instructions, directions and orders given by the terminal supervisor in respect of the place and manner of parking, the time of departure and arrival and any other matters conducive to the efficient and safe operation of a county bus terminal.

**40** (1) No person at a county bus terminal shall—

- (a) willfully interfere with or obstruct a terminal supervisor acting in the performance of his duties;
- (b) willfully interfere with or obstruct any person alighting from or entering or intending to board a motor vehicle;
- (c) enter or attempt to board a motor vehicle otherwise than by the doors provided for that purpose;

Restriction at a county bus terminal.

- (d) willfully obstruct any driver or conductor of a motor vehicle from acting in the performance of his duty as a driver or conductor; or
- (e) otherwise behave in a disorderly manner.

(2) A person contravening the provisions of this section commits an offence and shall be liable to a fine not exceeding five thousand, or to imprisonment for a term not exceeding six months, or to both.

41. (1) No person shall, within a county bus terminal—

Nuisance.

- (a) defecate or urinate in a place other than a public toilet;
- (b) interfere with or molest any other person;
- (c) tout, shout or call out for customers;
- (d) cause any disturbance or use any offensive, injurious or unbecoming language;
- (e) damage, deface, foul, misuse or interfere with any part of such bus terminal or any equipment, fitting or fixture provided;
- (f) litter or spit;
- (g) hawk goods without obtaining the necessary permits;
- (h) play games or loiter; and
- (i) play loud music as to cause annoyance and to be a nuisance to the public.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable to a fine not exceeding five thousand, or to imprisonment for a term not exceeding six months, or to both.

42. (1) The owner of any motor vehicle operating within a county bus terminal shall pay to the county such fees as the directorate may prescribe from time to time. (2) For the purpose of this law any motor vehicle driven into a county bus terminal shall be deemed to be using the county bus terminal.

Fees and charges.

(3) No person shall drive a motor vehicle into a county bus terminal when the fee due in respect thereof has not first been paid.

(4) For the purposes of this Part, the following

words have the meanings assigned to it;

“terminal supervisor” means the person appointed in writing by the County to manage, control and supervise the county bus terminal or terminals specified in such appointment and includes his duly authorized assistant;

“county bus terminal” means any bus terminal designated by the Directorate from time to time within the County and indicated as such by a sign;

“bus terminal” means any designated place where a bus or a public service motor vehicle starts or ends its scheduled route for passengers to board or alight;

#### **PART V—MISCELLANEOUS PROVISIONS**

**43.** A person who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function conferred on that person under this Act commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both.

Obstructing  
officers authorised.

**44. (1)** The Executive Committee Member may make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may make Regulations in respect of the following—

Power to make  
rules and  
Regulations.

- (a) recognition and modes of dealing with cab/taxi associations;
- (b) parking fees;
- (c) forms and application fees;
- (d) any other matter required for the better enforcement of the provisions of this Act; and
- (e) development and regulation of non-motorized means of transport.

(2) For the purpose of Article 94 (6) of the Constitution —

- (a) the purpose and objective of the delegation under this section is to enable the Executive Committee

Member to make rules to provide for the better carrying into effect the provisions of this Act;

- (b) the Authority of the Executive Committee Member to make Rules under this Act shall be limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section; and
- (c) the principles and standards applicable to the Regulations made under this section are the national values and principles of governance under Article 10 of the Constitution and the provisions of the Interpretation and General Provisions Act, Cap. 2 with appropriate modifications.



