

INDIAN HEMP ACT

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SCHEDULE

Amendments of Dangerous Drugs Act

INDIAN HEMP ACT

An Act to make the planting, cultivation, importation, etc. of Indian hemp an offence and to make provisions for other related matters.

[1966 No. 19. 1984 No. 27.]

[31st March, 1966]

[Commencement.]

PART I

Offences

1. **Meaning of "Indian hemp"**

In this Act "**Indian hemp**" means-

(a) any plant or part of a plant of the *genus cannabis*; or

(b) the separated resin, whether crude or purified, obtained from any plant of the *genus cannabis*; or

(c) any preparation containing any such resin,

by whatever name that plant, part, resin or preparation may be called.

2. **Planting or cultivating Indian hemp**

(1) Any person who knowingly plants or cultivates any plant of the *genus cannabis* shall be guilty of an offence and liable on conviction to be sentenced either to death or to imprisonment for a term of not less than twenty-one years.

(2) A person charged with an offence under this section shall be tried summarily by a single Judge of the High Court within whose jurisdiction the offence was committed.

3. **Unlawful importation or sale of Indian hemp**

(1) Any person who-

(a) imports any Indian hemp; or

(b) knowingly sells any Indian hemp,

shall be guilty of an offence and be liable on conviction to be sentenced to imprisonment for a term of not less than twenty-one years:

Provided that this subsection shall not apply to the importation or sale of any medical preparation of Indian hemp in circumstances such that no offence against the Dangerous Drugs Act is committed thereby.

[Cap. D1.]

(2) A person charged with an offence under this section shall be tried summarily by a single Judge of the High Court within whose jurisdiction the offence was committed.

4. **Exportation of Indian hemp**

Subject to this Act, any person who exports any Indian hemp shall be guilty of an offence, and liable on conviction to imprisonment for a term of not less than twenty-one years.

5. **Smoking or unlawful possession of Indian hemp**

(1) Any person who-

(a) smokes any Indian hemp; or

(b) knowingly has any Indian hemp in his possession,

shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than four years without the option of a fine:

Provided that-

(i) paragraph (b) of this subsection shall not apply to the possession of any medical preparation of Indian hemp in circumstances such that no offence against the Dangerous Drugs Act is committed thereby; and

[Cap. D1.]

(ii) where a person convicted of an offence under this subsection is a child or a young person within the meaning of the Children and Young Persons Law of a state or the Children and Young Persons Act of the Federal Capital Territory (that is to say, a person who is not more than seventeen years of age) he shall, in addition to twenty-one strokes of the cane, be sentenced to two years in a borstal or such similar institution or to a fine of ₦200.

(2) For the purposes of this section a person shall not be treated as possessing any Indian hemp where that Indian hemp-

(a) is in transit under and in accordance with the provisions of Part V of the Dangerous Drugs Act; or

[Cap. D1.]

(b) having been brought into Nigeria in transit, is diverted under and in accordance with those provisions,

and his possession of that Indian hemp is in connection with and for the purposes of the transit or diversion thereof, as the case may be.

6. **Possession of utensils for use in smoking Indian hemp**

Any person who, knowingly has in his possession, any pipe or other utensil for use in connection with the smoking of Indian hemp shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than five years.

7. **Use of premises for sales, smoking, etc., of Indian hemp**

(1) Any person who, being the occupier of any premises, permits those premises to

be used for any of the following purposes, that is to say-

(a) selling Indian hemp;

(b) smoking Indian hemp; or

(c) preparing Indian hemp for smoking,

shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than ten years without the option of a fine:

Provided that paragraph (a) of this subsection shall not apply to the use of premises for the sale of any medical preparation of Indian hemp in circumstances such that no offence against the Dangerous Drugs Act is committed thereby.

[Cap. D1.]

(2) Any person who, in any way assists in the commission of an offence under subsection (1) of this section, shall be guilty of an offence and liable on conviction to imprisonment for a term of not less than ten years, without the option of a fine.

PART II

Supplementary

8. **Jurisdiction of magistrates**

(1) Every magistrate in any part of Nigeria shall, notwithstanding anything contained in any enactment, have jurisdiction for the summary trial of any offence under sections 4 to 7 of this Act and may impose the punishment provided by this Act for such an offence.

(2) Subsection (1) of this section shall be without prejudice to the operation of the Children and Young Persons Law of any State or the Children and Young Persons Act of the Federal Capital Territory.

9. Conviction under this Act of persons charged with offences under Dangerous Drugs Act

(1) Subject to subsection (2) of this section, if in any proceedings for any offence against the Dangerous Drugs Act, the facts proved in evidence would justify a conviction for an offence under this Act, the accused shall be found guilty of the offence under this Act and shall thereupon be punished as if he had been charged with and convicted of the last mentioned offence.

[Cap. D1.]

(2) Nothing in subsection (1) of this section shall affect the validity of a conviction of or sentence for an offence against the Dangerous Drugs Act unless, in the course of the trial, and before the conviction, objection was made that, by reason of that subsection, the accused ought not to be convicted thereof but ought instead to be convicted of an offence under this Act.

10. Corporal punishment of male offenders under 19

(1) Where a male person apparently under the age of nineteen years is convicted of an offence under this Act then, notwithstanding anything in any other law, the court-

(a) shall have power to sentence the offender to caning, either in addition to or instead of any other punishment or order which the court has power to impose or make, and may specify any number of strokes not exceeding forty-nine; and

(b) unless it appears to the court that there are strong reasons why it should not do so in his particular case shall sentence the offender to caning; and

(c) if it specifies more than twelve strokes, shall direct the sentence to be carried out on successive days by instalments of which each (or, if the total number of strokes specified is not a multiple of seven, each except the last) shall consist of seven strokes.

(2) Subject to subsection (1) of this section, the provisions of any law relating to the execution of sentences of caning shall apply in relation to any such sentence imposed by virtue of that subsection.

(3) References in this section to conviction and to sentence shall, in relation to a juvenile court, be construed respectively as references to the court being satisfied of the offender's guilt and to the making of an order.

(4) The provisions of this section shall be without prejudice to any power to impose sentences of caning conferred by any other law.

(5) In its application to Abia, Akwa Ibom, Anambra, Bayelsa, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Imo, Ogun, Ondo, Osun, Oyo and Rivers States this section shall have effect with substitution of references to whipping for references to caning.

11. Measures for reforming children and young persons found guilty of offences

Without prejudice to section 10 of this Act, where a person under the age of seventeen years is tried by a juvenile court in any part of Nigeria for an offence under this Act and the court is satisfied of his or her guilt, the court, in considering the manner in which the case should be dealt with, shall have particular regard to the need to prevent a repetition of the offence and shall accordingly, unless it appears to the court that there are strong reasons why it should not do so in that particular case, either-

- (a) place the offender under the supervision of a probation office; or
- (b) send him to an approved institution; or
- (c) commit him to the care of a fit person; or
- (d) order his parent or guardian to give security for his good behaviour.

12. Forfeiture

Where any person is convicted of any offence under this Act, all articles (including any vehicle or vessel) used by him in connection with the offence shall be forfeited; and where any such forfeited article is a pipe or other utensil for use in connection with the smoking of Indian hemp, the court may order it to be destroyed.

13. Burden of proving lack of knowledge

Where, in any proceedings for any offence under this Act involving the doing of any thing knowingly or the having of anything in one's possession knowingly, it is proved or admitted that the accused did that thing or had that thing in his possession, he shall be taken to have done it or had it in his possession knowingly, unless he proves the contrary.

14. Amendment and application of provisions of the Dangerous Drugs Act

(1) The Dangerous Drugs Act shall have effect subject to the amendments specified in the Schedule to this Act, being amendments consequential on the foregoing provisions of this Act.

[Cap. D1. Schedule.]

(2) The following provisions of the Dangerous Drugs Act, that is to say-

[Cap. D1.]

- (a) section 17 (Powers of inspection);
 - (b) section 19 (4) (Attempt to commit offence, incitement etc.);
 - (c) section 19 (5) (Offences by companies);
 - (d) section 20
 - (e) section 21
- (Burden of proof);
- (Power of arrest),

shall apply in relation to offences under this Act as they apply in relation to offences against the Dangerous Drugs Act.

15. Short title, interpretation, etc.

- (1) This Act may be cited as the Indian Hemp Act.
- (2) In this Act, the expressions "**import**", "**export**", "**transit**" and "**in transit**" have the meanings assigned by section 2 of the Dangerous Drugs Act.

(3) In this Act, any reference to a person having anything in his possession includes a reference to his having it under his control, and references to possession shall be construed accordingly.

(4) Notwithstanding anything to the contrary in the Interpretation Act, the appropriate penalty prescribed in respect of an offence by this Act, as amended, shall be applicable in respect of any person who after the commencement of this Act is convicted of that offence whether or not the offence was committed before the commencement of this Act.

[Cap. 123.]

INDIAN HEMP ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation