

Supplement to Official Gazette Extraordinary No. 33, Vol. 53, 4th April, 1966—Part A

## THE INDIAN HEMP DECREE 1966



### ARRANGEMENTS OF SECTIONS

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### Decree No. 19

[31st March 1966]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

#### PART I OFFENCES

1. In this Decree "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.

Meaning of "Indian hemp".

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

Planting or cultivating Indian hemp.

Unlawful  
importation or sale  
of Indian  
hemp.

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Exportation  
of Indian  
hemp.

Smoking or  
unlawful  
possession  
of Indian  
hemp.

Possession  
of utensils  
for use in  
smoking  
Indian  
hemp.

Use of  
premises  
for sale,  
smoking, etc.  
of Indian  
hemp.

(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.—(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 either to death or to imprisonment for a term of not less than fifteen 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.

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

- 5.—(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 be liable on conviction to imprisonment for a term of not less than ten years :

Provided that paragraph (b) above 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.

(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

(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. 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 be liable on conviction to imprisonment for a term of not less than five years.

7.—(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 be liable on conviction to imprisonment for a term of not less than ten years :

Provided that paragraph (a) above 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. 48.

(2) Any person who in any way assists in the commission of an offence under subsection (1) above shall be guilty of an offence and be liable on conviction to imprisonment for a term of not less than ten years.

PART II

SUPPLEMENTARY

8.—(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 Decree and may impose the punishment provided by this Decree for such an offence.

Jurisdiction of magistrates.

(2) Subsection (1) above shall be without prejudice to the operation of the Children and Young Persons Act or any corresponding enactment in force in any part of Nigeria.

Cap. 32.

9.—(1) Subject to subsection (2) below, 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 Decree, the accused shall be found guilty of the offence under this Decree and shall thereupon be punished as if he had been charged with and convicted of the last-mentioned offence.

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

(2) Nothing in subsection (1) above 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 Decree.

Cap. 48.

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

Corporal punishment of male offenders under 19.

(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) above, 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 Eastern, Western and Mid-Western Nigeria this section shall have effect with the substitution of references to whipping for references to caning.

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

11. Without prejudice to section 10 of this Decree, 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 Decree 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 officer; 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.

Forfeiture.

12. Where any person is convicted of any offence under this Decree, 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.

Burden of proving lack of knowledge.

13. Where, in any proceedings for any offence under this Decree 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.

Amendment and application of provisions of Dangerous Drugs Act Cap. 48.

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

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

section 18 (Powers of inspection)

section 20 (4) (Attempt to commit offence, incitement etc.)

section 20 (5) (Offences by companies)

section 21 (Burden of proof)

section 22 (Power of arrest)

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

Citation, extent, interpretation etc.

15.—(1) This Decree may be cited as the Indian Hemp Decree 1966 and shall apply throughout Nigeria.

(2) In this Decree the expressions "import", "export", "transit" and "in transit" have the meanings assigned by section 2 of the Dangerous Drugs Act.

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

(4) Nothing in this Decree shall apply in relation to anything done before the commencement of this Decree.

## Section 15.

## SCHEDULE

## AMENDMENTS OF DANGEROUS DRUGS ACT (CAP. 48)

**Section 2**

For the definition of "Indian hemp" there shall be substituted the following definition—

"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 ; '.

**Section 4**

The words from "and resins" onwards shall be omitted.

**Section 5**

The whole section shall cease to have effect.

**Section 8**

After subsection (3) there shall be inserted the following subsection—

'(4) Without prejudice to the provisions of the Indian Hemp Decree 1966 relating respectively to medical preparations of Indian hemp and to Indian hemp in transit and its diversion, nothing in any regulations made under this section shall render lawful anything which is an offence under the Indian Hemp Decree 1966.'

**Section 11**

In the definition of "dangerous drug"—

(a) in paragraph (a), after the word "leaves" there shall be inserted the word "and", and the words from "and resins" to "base" shall be omitted ; and

(b) in the proviso, for the words "section 5" there shall be substituted the words "the Indian Hemp Decree 1966".

**Section 22**

The words from "if he" onwards shall be omitted.

DATED at Lagos this 31st day of March 1966.

MAJOR-GENERAL J. T. U. AGUIYI-IRONSI,  
*Head of the Federal Military Government,  
Supreme Commander of the Armed Forces,  
Federal Republic of Nigeria*