

DISHONoured CHEQUES (OFFENCES) DECREE 1977



DECREE No. 44

[20th May 1977]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Offences in
relation to
dishonoured
cheques, etc.

1.—(1) Any person who—

(a) obtains or induces the delivery of anything capable of being stolen either to himself or to any other person ; or

(b) obtains credit for himself or any other person,

by means of a cheque that, when presented for payment not later than three months after the date of the cheque, is dishonoured on the ground that no funds or insufficient funds were standing to the credit of the drawer of the cheque in the bank on which the cheque was drawn, shall be guilty of an offence and on conviction shall—

(i) in the case of an individual be sentenced to imprisonment for two years, without the option of a fine, and

(ii) in the case of a body corporate be sentenced to a fine of not less than ₦5,000.

(2) For the purposes of subsection (1) of this section—

(a) the reference to anything capable of being stolen shall be deemed to include a reference to money and every other description of property, things in action and other intangible property ;

(b) a person who draws a cheque which is dishonoured on the ground stated in the subsection and which was issued in settlement or purported settlement of any obligation under an enforceable contract entered into between the drawer of the cheque and the person to whom the cheque was issued, shall be deemed to have obtained credit for himself by means of the cheque notwithstanding that at the time when the contract was entered into the manner in which the obligation would be settled was not specified.

(3) A person shall not be guilty of an offence under this section if he proves to the satisfaction of the court that when he issued the cheque he had reasonable grounds for believing, and did believe in fact, that it would be honoured if presented for payment within the period specified in subsection (1) above.

Offences by
body corpo-
rate.

2. Where any offence under this Decree by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in any such capacity), he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished in the same manner as an individual.

Procedure for
trial of
offences.

3.—(1) Offences under this Decree shall be triable summarily by the High Court of the State where the offence was committed and the procedure applicable in the case of summary trial of offences before such court shall apply to the same extent for the purposes of trials for offences under this Decree.

(2) Authority to exercise the powers of the Attorney-General of the Federation under section 104 of the Constitution of the Federation (which relates to the initiation and conduct of criminal proceedings for offences under an enactment) is hereby, in respect of any offence under this Decree committed in a State, conferred on the Attorney-General of that State but nothing in this subsection shall be construed as precluding the Attorney-General of the Federation from exercising any of the powers to which this subsection relates.

Citation, etc.

4.—(1) This Decree may be cited as the Dishonoured Cheques (Offences) Decree 1977.

(2) Section 24 of the Interpretation Act 1964 (which provides that a person shall not be punished twice when guilty of an offence under more than one enactment) shall apply in respect of offences under this Decree.

MADE at Lagos this 20th day of May 1977.

LT.-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree but is
intended to explain its purpose)*

The Decree renders it an offence for any person anywhere in Nigeria to induce the delivery of any property or to purport to settle a lawful obligation by means of a cheque which when presented within a reasonable time is dishonoured on the grounds that no funds or insufficient funds were standing to the credit of the drawer of the cheque. Ancillary provisions are made with respect to the trial of offences under the Decree.