

MISCELLANEOUS OFFENCES ACT

ARRANGEMENT OF SECTIONS

Offences and penalties

1. Offences triable by Federal High Court.
2. Powers of arrest, issue of search warrant, etc.
3. Offence by body corporate, evidence of accomplices, etc.
4. Interpretation.
5. Short title.

MISCELLANEOUS OFFENCES ACT

An Act to create a number of miscellaneous offences with stiff penalties and for the trial of such offenders.

Commencement: 31st December, 1983

Offences and Penalties

1. Offences triable by Federal High Court

(1) The Federal High Court shall have power to try any person for any of the offences specified under this section and to impose the penalty relating thereto.

Forging and uttering negotiable instruments

(2) Any person who-

(a) fraudulently or knowingly utters, forges, procures, alters, accepts or presents to another person any cheque, promissory note or other negotiable instrument knowing it to be false, forged, stolen or unlawfully procured; or

(b) knowingly and by means of any false representation or with intent to defraud the Federal Government, the Government of any State or any local government, causes the delivery or payment to himself or any other person of any property or money by virtue of any forged or false cheque, promissory note or other negotiable instrument whether in Nigeria or elsewhere; or

(c) makes or utters any forged document, cheque, promissory note or other negotiable instrument, knowing it to be false or with intent that it may in any way be used or acted upon as genuine, whether in Nigeria or elsewhere to the prejudice of any person or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act or thing, whether in Nigeria or elsewhere, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 21 years without the option of a fine.

Wilful destruction of public property

(3) Any person who unlawfully or with intent to destroy or damage any public property removes, defaces or damages any public property shall be guilty of an offence and liable on conviction-

(a) if the property in question is a building, structure, vehicle or thing whatsoever owned or occupied by the Government of the Federation, or of a State, local government, a department or statutory

corporation of the Government of the Federation or of a State, to imprisonment for a term not exceeding fourteen years without the option of a fine;

(b) if the property in question is a railway line, electric power line, telephone line or a demarcation line on a public highway and the property is damaged or rendered dangerous, impassable or non-functional, to imprisonment for a term not exceeding 21 years without the option of a fine.

Arson of public building, etc.

4. Any person who wilfully or maliciously sets fire to-

(a) any public building, dwelling house, office or structure whatsoever, whether completed or not, occupied or not; or

(b) any vessel, ship, aircraft, railway track or wagon, or vehicle; or

(c) any mine or the working, fittings, or appliances of a mine, shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life.

Arson of cultivated vegetable produce, etc.

(5) Any person who wilfully or maliciously sets fire to any stack of cultivated vegetable produce or mineral or vegetable fuel shall be guilty of an offence, and liable on conviction to imprisonment for a term not exceeding fourteen years without the option of a fine.

Unlawful destruction of highways

(6) Any person, who for any purpose whatsoever, wilfully, unlawfully or maliciously-

(a) causes any damage or authorises any damage to any highway and fails, refuses or neglects to repair such highway on completion of any work, if any, thereon; or

(b) destroys, removes or damages any guard rail or other structure on any highway, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding ten years without the option of a fine.

Tampering with oil pipeline

(7) Any person who wilfully or maliciously-

(a) breaks, damages, disconnects or otherwise tampers with any pipe or pipeline for the transportation of crude oil or refined oil or gas; or

(b) obstructs, damages, destroys or otherwise tampers or interferes with the free flow of any crude oil or refined petroleum product through any oil pipeline, shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life.

Importing or exporting of mineral or mineral ore

(8) Any person who-

(a) with intent to defraud the Federal Government of the revenue accruing there- from and without the permission of the appropriate authority, imports into or exports out of Nigeria any mineral or mineral ore, the importation or exportation of which is prohibited, controlled or subject to certain condition in any law in force in Nigeria; or

(b) without lawful authority, mines, purchases or otherwise comes into possession of a mineral or mineral ore, shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life; and-

(i) in addition the motor vehicle or vessel as well as the mineral or mineral ore concerned shall be forfeited to the Federal Government;

(ii) for the purposes of this subsection, "mineral" and "mineral ore" each has the same meaning assigned thereto in the Minerals and Mining Act.

Tampering with electric plant, works, etc.

(9) Any person who unlawfully disconnects, removes, damages, tampers, meddles with or in any way whatsoever interferes with any plant, works, cables, wire or assembly of wires designed or used for transforming or converting electricity shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life.

Tampering with electric fittings, etc.

(10) Any person who unlawfully disconnects, removes, damages, tampers, meddles with or in any way whatsoever interferes with any electric fittings, meters or other appliances used for generating, transforming, converting, conveyancing, supplying or selling electricity shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 21 years.

Tampering with telephone wires, etc.

(11) Any person who unlawfully disconnects, removes, damages, tampers, meddles with or in any way whatsoever interferes with any cable, wire or assembly of wires used for the conveyance of telephone, telegraph, visual messages or images shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 21 years.

Tampering with postal matters

(12) Any person who-

(a) wilfully, unlawfully or maliciously stops, dumps, intercepts, tampers or meddles with or otherwise retards the delivery of any postal matter or telegram shall be guilty of an offence and liable on conviction for a term not exceeding fifteen years; or

(b) wilfully, unlawfully or maliciously-

(i) stops, intercepts, tampers or meddles with any postal matter with intent to search or rob it; or

(ii) secretes or destroys any postal matter or telegram or any part thereof whether or not such postal matter so secreted or destroyed contains money or other thing whatsoever, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 21 years. Unlawful exportation of commodity

(13) Any person who without lawful authority takes or causes to be taken out of Nigeria in commercial quantity any commodity shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding ten years and in addition the commodity as well as any vehicle, vessel, aircraft or other conveyance used in connection therewith shall be forfeited to the Federal Government.

Selling prohibited goods, etc.

(14) (a) Any person who-

(i) imports, transports, sells, exposes or offers for sale, buys, stores or otherwise deals in or with; or

(ii) induces any other person to import, transport, sell, expose or offer for sale, buy, store or otherwise deal in or with, any goods, ware or other thing prohibited from importation by any law in force in Nigeria, including the Customs, Tariff, etc. (Consolidation) Act, any amendment thereto or instrument made thereunder, shall be guilty of an offence and liable on conviction to imprisonment for life.

(b) In addition to the penalty specified in paragraph (a) of this subsection-

(i) the goods, ware or other thing, as well as, any vehicle, vessel, aircraft or anything whatsoever used for the importation, transportation, sale, exposure or storage; and

(ii) all the assets, movable or immovable, including motor vehicles of any person convicted of the offence, shall be forfeited to the Federal Government.

(c) Where any customs officer or other person, aids, counsels, procures, or conspires with any other person to commit an offence under this subsection, he shall be guilty of an offence and liable on conviction to the same punishment as prescribed for the offence under this subsection.

Importation, etc., of cocaine, heroin, etc.

(15) (a) Any person who without lawful authority-

(i) imports, manufactures, processes, plants or grows the drug popularly known as cocaine, LSD, heroin or any other similar drug shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life; or

(ii) exports, transports, or otherwise traffics in the drug popularly known as cocaine, LSD, heroin or any other similar drug shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty years; or

(iii) sells, buys, exposes for sale or otherwise deals in or with the drug popularly known as cocaine, LSD, heroin or any other similar drug shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding fourteen years; or

(iv) smokes, inhales, injects or otherwise possesses the drug popularly known as cocaine, LSD, heroin or any other similar drug shall be guilty of an offence and liable on conviction to imprisonment for a term not less than two years but not more than ten years:

Provided that the quantity of the drug in question shall be taken into account by the Federal High Court when imposing any penalty stipulated under this subsection;

(b) (i) all the assets, movable or movable including motor vehicles, of any person convicted of an offence under this subsection shall be forfeited to the Federal Government;

(ii) the President may empower a panel constituted under section 1 of the Recovery of Public Property Act to conduct an investigation for the purpose of ascertaining the assets of any person convicted of an offence under this Act;

(c) the passport of any person convicted of an offence involving importation or exportation under this subsection shall be forfeited to the Federal Government and shall not be returned to such person until after five years from the date of pronouncement of the sentence imposed upon such person or until such person has served the sentence imposed upon him, whichever last occurs;

(d) for the purposes of paragraph (a) of this subsection, the drug popularly known as cocaine, LSD, heroin or any other similar drug shall be deemed to be exported out of Nigeria at the time when it is brought to any of the customs area, customs station, customs port or customs airport.

Cheating at examination

(16) Any person who, in anticipation of, before or at any examination-

(a) by any fraudulent trick or device or in abuse of his office or with intent to unjustly enrich himself or any other person procures any question paper produced or intended for use at any examination of persons whether or not the question paper concerned is proved to be false, not genuine or not related to the examination in question; or

(b) by any false pretence or with intent to cheat or secure any unfair advantage for himself or any other person, procures from or induces any other person to deliver to himself or another person any question paper intended for use at any examination; or

(c) by any false pretence, with intent to cheat or unjustly enrich himself or any other person whatsoever buys, sells, procures or otherwise deals with any question paper intended for use or represented as a genuine question paper in respect of any particular examination; or

(d) fraudulently or with intent to cheat or secure any unfair advantage for himself or any other person or in abuse of his office procures, sells, buys or otherwise deals with any question paper intended for the examination of persons at any examination, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding ten years:

Provided that-

(i) a person who is a child or a young person (within the meaning of the Children and Young Persons Law) that is a person who has not attained the age of seventeen years, shall not be punished for an offence under this subsection but shall be dealt with under the provisions of the Children and Young Persons Law;

(ii) where the accused is an employee of anybody concerned with the conduct of examinations, a head teacher, teacher or other person entrusted with the safety and security of question papers, he shall be proceeded against and punished as provided in this section, notwithstanding that the question paper concerned is proved not to be live, genuine or does not relate to the examination concerned.

Dealing in petroleum products, etc.

(17) Any person who without lawful authority or an appropriate licence-

(a) imports, exports, sells, offers for sale, distributes or otherwise deals with or in any crude oil, petroleum or petroleum product in Nigeria;

(b) does any act for which a licence is required under the Petroleum Act, shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life, and in addition, any vehicle, vessel, aircraft or other conveyance used in connection therewith shall be forfeited to the Federal Government.

Adulteration of petroleum, petroleum products, etc.

(18) (a) Any person who-

(i) adulterates any petroleum, petroleum product, food, drink, drug, medical preparation or any manufactured or processed product whatsoever so as to affect or change materially the quality, substance, nature or efficacy of such petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product, intending to sell same as petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product, as the case may be, without notice to the purchaser or knowing that the same will be sold as petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding fourteen years without option of fine; or

(ii) deals in, sells, offers for sale or otherwise exposes for sale any petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product which is not of the quality, substance, nature or efficacy expected of the product or preparation, or is not of the quality, substance, nature or efficacy which the seller represents it to be, or has in any way been rendered or has become noxious, dangerous or unfit, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding ten years;

(b) (i) whenever any person is charged with committing any offence under the preceding paragraph (a) (ii) it shall be a defence if he can establish that he did not know or had no reason to know or believe that the petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product has been adulterated or otherwise rendered noxious, dangerous or unfit;

(ii) in any trial for an offence under paragraph (a) (ii) of this subsection, the Federal High Court may make such order as it deems fit for the purpose of making compensatory awards to the victim or purchaser of any adulterated, noxious, dangerous or unfit petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product and it may order the forfeiture of the petroleum, petroleum product, food, drink, drug, medical preparation or manufactured or processed product concerned;

(iii) in this section "petroleum and petroleum product" shall have the meaning assigned thereto in the Petroleum Act.

Attempt to commit offence, etc.

(19)(a) Any person who attempts to commit any of the offences specified under this section shall be guilty of an offence and liable on conviction to the same punishment as prescribed for the offence under this section;

(b) where a person is charged with any of the offences specified under this section, but the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged and shall be liable to the same punishment as prescribed for the offence under this section.

2. Powers of arrest, issue of search warrants, etc.

(1) Any person who commits an offence under this Act shall be arrested without warrant by a police officer or customs officer, as the case may be.

(2) Notwithstanding the provisions of any other enactment conferring power to search, if the Judge of the Federal High Court is satisfied that there is reasonable ground to suspect that there may be found in any building or other place whatsoever, any money or other property or any books, records, accounts, statements or information in any other form whatsoever which, in his opinion, are or may

be material to the subject-matter of any trial under this Act, he may issue a warrant under his hand authorising any police officer to search, if necessary by force, the said building or other place or any part thereof, and to search for, seize and remove any such thing as aforesaid found therein.

3. Offence by body corporate, evidence of accomplices, etc.

(1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where a body corporate is convicted of an offence punishable by a term of imprisonment without the option of a fine or to death under this Act, the Federal High Court may order that the body corporate be wound up and the body corporate shall thereupon and without any further assurance but for such order, be wound up and all its assets forfeited to the Federal Government.

(3) Notwithstanding anything to the contrary in any law (including any rule of law), no witness shall, in any trial under this Act, be presumed to be unworthy of credit by reason only that he took part in the commission of the offence.

(4) Where a person is charged with an offence but the evidence establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence, although the attempt is not separately charged, and punished as provided under this Act.

(5) Where a person is charged with an offence under this Act, but the evidence establishes the commission of another offence under this Act, the offender shall not be entitled to acquittal but he may be convicted of that other offence and punished as provided under this Act.

(6) Where a person aids, counsels, procures or conspires with any other person to commit any of the offences created by this Act, he shall be guilty of an offence and shall on conviction be liable to the same punishment as prescribed for that offence under this Act.

Interpretation

In this Act, unless the context otherwise requires-

"Cable" means any wire or appliance used for generating, conveying, converting or supplying electrical energy or used for the purpose of telegraph or television communication;

"Commodity" has the same meaning assigned thereto by the Second Schedule to the Commodity Boards Act;

"Pipeline" has the same meaning assigned to it by the Oil Pipelines Act;

"Public building" means any building, structure or edifice belonging to, occupied by or operated on behalf of the Government of the Federation or of a State or any department or statutory corporation thereof; and "public property" shall be construed accordingly.

5. Short title

This Act may be cited as the Miscellaneous Offences Act.

MISCELLANEOUS OFFENCES ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation