

LAWS OF MALAYSIA

REPRINT

Act 37

FIREARMS (INCREASED PENALTIES) ACT 1971

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2006



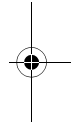
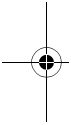
**FIREARMS (INCREASED PENALTIES)
ACT 1971**

Date of Royal Assent 30 August 1971

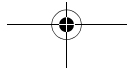
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Act 37

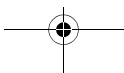
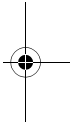
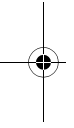
FIREARMS (INCREASED PENALTIES) ACT 1971

ARRANGEMENT OF SECTIONS

Section

1. Short title, application, commencement and duration
2. Interpretation
3. Penalty for discharging a firearm in the commission of a scheduled offence
- 3A. Penalty for accomplices in case of discharge of firearm
4. Penalty for exhibiting a firearm in the commission of a scheduled offence
5. Penalty for having firearm in the commission of a scheduled offence
6. Penalty for exhibiting an imitation firearm in the commission of a scheduled offence
7. Penalty for trafficking in firearms
8. Penalty for unlawful possession of firearms
9. Penalty for consorting with persons carrying arms
10. Jurisdiction of Sessions Court
11. Special provisions relating to transmission of a case to, and trial by, the High Court
12. No bail to be granted in respect of offences under this Act

SCHEDULE



LAWS OF MALAYSIA

Act 37

**FIREARMS (INCREASED PENALTIES)
ACT 1971**

An Act to provide increased penalties for the use of firearms in the commission of certain offences and for certain offences relating to firearms, and to make special provision relating to the jurisdiction of courts in respect of offences thereunder and their trial.

*[Throughout Malaysia—1 October 1971,
P.U.(B)339/1971]*

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Short title, application, commencement and duration

1. (1) This Act may be cited as the Firearms (Increased Penalties) Act 1971.

(2) This Act shall apply throughout Malaysia.

(3) This Act shall come into force on such date as the Minister charged with the responsibility for public order may by notification in the *Gazette* appoint, not being a date earlier than that on which the notification is published.

(4) This Act shall remain in force until it is annulled by resolutions passed by both Houses of Parliament:

Provided that such annulment shall be without prejudice to anything previously done by virtue of this Act.

Interpretation

2. (1) In this Act—

“discharge” means to cause the discharge of a shot, bullet or other missile from a firearm by means of an explosive charge, and includes the causing of a bomb or grenade to explode;

“firearm” means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged by means of an explosive charge, and includes a bomb or grenade containing an explosive charge;

“imprisonment for life” means, notwithstanding section 3 of the Criminal Justice Act 1953 [*Act 345*] and any other written law to the contrary, imprisonment for the duration of the natural life of the person sentenced;

“scheduled offence” means any offence enumerated in the Schedule;

“subordinate court” has the meaning assigned thereto in section 3 of the Courts of Judicature Act 1964 [*Act 91*];

“traffic in firearms” means—

- (a) to sell or transfer, or keep or expose for sale or transfer, a firearm in contravention of subsection 9(1) of the Arms Act 1960 [*Act 206*];
- (b) to repair or accept for repair a firearm in contravention of subsection 9(2) of the Act;
- (c) to transfer, sell or offer for sale a firearm to a person other than a person specified in subsection 11(1) of the Act; or
- (d) to import a firearm in contravention of subsection 15(1) of the Act;
- (e) (*Deleted by Act A266*).

“unlawful possession of a firearm” means possession, custody or control of a firearm, or the carrying thereof, in contravention of the Arms Act 1960.

(2) Words and expressions used in this Act which occur in the Penal Code [*Act 574*] have the meanings respectively assigned to them in that Code.

Penalty for discharging a firearm in the commission of a scheduled offence

3. Any person who at the time of his committing or attempting to commit or abetting the commission of a scheduled offence discharges a firearm with intent to cause death or hurt to any

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person, shall, notwithstanding that no hurt is caused thereby, be punished with death.

Penalty for accomplices in case of discharge of firearm

3A. Where, with intent to cause death or hurt to any person, a firearm is discharged by any person at the time of his committing or attempting to commit or abetting the commission of a scheduled offence, each of his accomplices in respect of the offence present at the scene of the commission or attempted commission or abetment thereof who may reasonably be presumed to have known that such person was carrying or had in his possession or under his custody or control the firearm shall, notwithstanding that no hurt is caused by the discharge thereof, be punished with death, unless he proves that he had taken all reasonable steps to prevent the discharge.

Penalty for exhibiting a firearm in the commission of a scheduled offence

4. Any person who at the time of his committing or attempting to commit or abetting the commission of a scheduled offence or robbery exhibits a firearm in a manner likely to put any person in fear of death or hurt shall be punished with imprisonment for life and with whipping with not less than six strokes.

Penalty for having firearm in the commission of a scheduled offence

5. Any person who at the time of his committing or attempting to commit or abetting the commission of a scheduled offence has on his person a firearm shall be punished with imprisonment for life and with whipping with not less than six strokes.

Penalty for exhibiting an imitation firearm in the commission of a scheduled offence

6. Any person who at the time of his committing or attempting to commit or abetting the commission of a scheduled offence exhibits an imitation firearm in a manner likely to put any person in fear of death or hurt shall be punished with imprisonment for a term which may extend to ten years and with whipping with not less than three strokes.

Penalty for trafficking in firearms

7. (1) Any person trafficking in firearms shall be punished with—

- (a) death; or
- (b) imprisonment for life and with whipping with not less than six strokes.

(2) Any person proved to be in unlawful possession of more than two firearms shall be presumed to be trafficking in firearms.

Penalty for unlawful possession of firearms

8. Any person who is in unlawful possession of a firearm shall be punished with imprisonment for a term which may extend to fourteen years and with whipping with not less than six strokes.

Penalty for consorting with persons carrying arms

9. Any person who consorts with, or is found in the company of, another person who is in unlawful possession of a firearm in circumstances which raise a reasonable presumption that he knew that such other person was in unlawful possession of the firearm shall, unless he proves that he had reasonable grounds for believing that such other person was not in unlawful possession of the firearm, be punished with imprisonment for a term which may extend to fourteen years and with whipping with not less than six strokes.

Jurisdiction of Sessions Court

10. (1) Notwithstanding any other written law to the contrary, a Sessions Court shall have jurisdiction to try all offences under this Act, except offences under section 3 or 3A, and to impose for any offence so tried the full punishment or penalty provided for that offence by this Act, except the penalty of death.

(2) Notwithstanding subsection (1), the High Court shall have jurisdiction to try any case in respect of any offence under this Act, if the Public Prosecutor requires any such case to be tried by the High Court.

Special provisions relating to transmission of a case to, and trial by, the High Court

11. (1) Where any case in respect of an offence under this Act is required by the Public Prosecutor to be tried by the High Court, the accused person shall be produced before the appropriate subordinate court which shall, after the charge has been explained to him, transmit the case to the High Court without holding a preliminary inquiry under *Chapter XVII of the Criminal Procedure Code [*Act 593*], and cause the accused person to appear or be brought before such Court as soon as may be practicable.

****(2)** When the accused person appears or is brought before the High Court in accordance with subsection (1), the High Court shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX of the Criminal Procedure Code.

(3) The trial of a case transmitted to the High Court under subsection (1) shall be by a Judge of the High Court sitting alone, and *Chapters XXI and XXII of the Criminal Procedure Code shall not apply to such trial.

(4) Subsections (1), (2) and (3) shall have effect notwithstanding any other written law to the contrary.

No bail to be granted in respect of offences under this Act

12. (1) Bail shall not be granted to an accused person charged with an offence under this Act.

(2) Subsection (1) shall apply notwithstanding any other written law or any rule of law to the contrary.

*NOTE—Chapters XVII, XXI and XXII of the Criminal Procedure Code [*Act 593*] has been repealed—see sections 5 & 11 of Criminal Procedure Code (Amendment) Act 1995 [*Act A908*].

**NOTE—See section 6 of Firearms (Increased Penalties) (Amendment) Act 1978 [*Act A427*] for transitional provisions.



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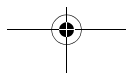
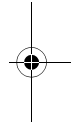
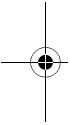
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SCHEDULE

[Section 2]

1. Extortion.
 2. Robbery.
 3. The preventing or resisting, by any person, of his own arrest or the arrest of another by a police officer or any other person lawfully empowered to make the arrest.
 4. Escaping from lawful custody.
 5. Abduction or kidnapping under sections 363 to 367 of the Penal Code and section 3 of the Kidnapping Act 1961 [*Act 365*].
 6. House-breaking or house-trespass under sections 454 to 460 of the Penal Code.
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**FIREARMS (INCREASED PENALTIES)
ACT 1971**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act A256	Firearms (Increased Penalties) (Amendment) Act 1974	08-07-1974
Act A266	Arms (Amendment) Act 1974	16-08-1974
Act A317	Firearms (Increased Penalties) (Amendment) Act 1975	05-09-1975
Act A427	Firearms (Increased Penalties) (Amendment) Act 1978	10-03-1978
Act 206	Arms Act 1960	15-11-1978

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**FIREARMS (INCREASED PENALTIES)
ACT 1971**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
Long title	Act A256	08-07-1974
	Act A427	10-03-1978
2	Act A256	08-07-1974
	Act A427	10-03-1978
	Act A266	16-08-1974
3A	Act A256	08-07-1974
4	Act A256	08-07-1974
5	Act A256	08-07-1974
6	Act A256	08-07-1974
7	Act A256	08-07-1974
8	Act A256	08-07-1974
9	Act A256	08-07-1974
10	Act A317	05-09-1975
	Act A427	10-03-1978
11	Act A427	10-03-1978
12	Act A427	10-03-1978
Schedule	Act A256	08-07-1974