

A BILL

i n t i t u l e d

An Act to amend the Firearms (Increased Penalties) Act 1971.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Firearms (Increased Penalties) (Amendment) Act 2022.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Firearms (Increased Penalties) Act 1971 [*Act 37*], which is referred to as the “principal Act” in this Act, is amended in section 2 by deleting the definition of “imprisonment for life”.

Amendment of section 3

3. Section 3 of the principal Act is amended by inserting after the words “be punished with death” the words “or with imprisonment for natural life, and if he is not sentenced to death, shall also be punished with whipping of not less than twelve strokes”.

Amendment of section 3A

4. The principal Act is amended by substituting for section 3A the following section:

“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—

(a) with death; or

(b) with imprisonment for natural life, and if he is not sentenced to death, shall also be punished with whipping of not less than twelve strokes,

unless he proves that he had taken all reasonable steps to prevent the discharge.”.

Amendment of section 4

5. Section 4 of the principal Act is amended by substituting for the word “life” the words “natural life”.

Amendment of section 5

6. Section 5 of the principal Act is amended by substituting for the word “life” the words “natural life”.

Amendment of section 7

7. Section 7 of the principal Act is amended by substituting for subsection (1) the following subsection:

“(1) Any person trafficking in firearms shall be punished with imprisonment for natural life and with whipping of not less than ten strokes.”.

Transitional

8. Upon the coming into operation of this Act, if a person is convicted by any court for the commission of an offence under section 3, 3A or 7 of the principal Act, the person, whether at a trial or on an appeal, shall be sentenced in accordance with the provisions of the principal Act as amended by this Act even though the offence was committed before the date of coming into operation of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Firearms (Increased Penalties) Act 1971 (“Act 37”).

2. *Clause 1* contains the short title and the provision on the commencement of the proposed Act.

3. *Clause 2* seeks to amend section 2 of Act 37 to delete the definition of “imprisonment for life”. The terms “imprisonment for life” and “imprisonment for natural life” are explained in the Criminal Justice Act 1953 [Act 345].

4. *Clause 3* seeks to amend section 3 of Act 37 to vary the penalty for the discharging of a firearm in the commission of a scheduled offence. This amendment is to abolish the mandatory death penalty and to give discretion to the judge with regard to the imposition of the death penalty.

5. *Clause 4* seeks to amend section 3A of Act 37 to vary the penalty for accomplices in the case of discharge of firearm. This amendment is to abolish the mandatory death penalty and to give discretion to the judge with regard to the imposition of the death penalty.

6. *Clause 7* seeks to amend section 7 of Act 37 to vary the penalty for trafficking in firearms by, among others, abolishing the death penalty.

7. *Clause 8* seeks to provide for transitional provision relating to any person who has committed an offence under sections 3, 3A or 7 of Act 37 before the date of coming into operation of this Act.
8. Other amendments not specifically dealt with in this Explanatory Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)3135]