

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE FIREARMS LAW (2006
REVISION) TO CLARIFY THE LAW IN RESPECT OF THE
IMPOSITION OF MANDATORY MINIMUM SENTENCES; TO RE-
STATE THE LAW RELATING TO THE TRIAL OF CERTAIN
OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE FIREARMS (AMENDMENT) BILL, 2007

MEMORANDUM OF OBJECTS AND REASONS

The Firearms (Amendment) Law, 2005, Law 17 of 2005, sought to make provision for the imposition of mandatory minimum sentences upon conviction for certain firearms offences.

There has been a judicial ruling to the effect that the amending Law failed to achieve its objective because it did not stipulate that the mandatory minimum sentence was to be imposed on “summary conviction”.

This Bill seeks to re-state and clarify the law relating to the imposition of mandatory minimum sentences upon conviction for specified firearms offences.

The Bill also re-states that the offence of unlawful possession of a firearm is a Category B offence, thereby correcting an omission.

THE FIREARMS (AMENDMENT) BILL, 2007

ARRANGEMENT OF CLAUSES

1. Short title.
2. Amendment of section 3 of the Firearms Law (2006 Revision) - restriction on importation or exportation of firearms and bullet-proof vests.
3. Amendment of section 15 - possession and use of firearms and bullet-proof vests.
4. Amendment of section 18 - restriction relating to the discharge and carriage of firearms and the wearing of bullet-proof vests.
5. Amendment of section 38 - Category B offence.
6. Insertion of section 38A - minimum sentences for certain offences.
7. Savings and transitional provisions.

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A BILL FOR A LAW TO AMEND THE FIREARMS LAW (2006 REVISION) TO CLARIFY THE LAW IN RESPECT OF THE IMPOSITION OF MANDATORY MINIMUM SENTENCES; TO RESTATE THE LAW RELATING TO THE TRIAL OF CERTAIN OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Firearms (Amendment) Law, 2007. Short title

2. The Firearms Law (2006 Revision), in this Law referred to as the “principal Law”, is amended in section 3 as follows - Amendment of section 3 of the Firearms Law (2006 Revision) - restriction on importation or exportation of firearms and bullet-proof vests
 - (a) by repealing subsection (3) and substituting the following subsection -
“ (3) Whoever contravenes subsection (1) is guilty of an offence and, subject to section 38A, is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.”; and
 - (b) by repealing subsection (5).

3. The principal Law is amended in section 15 as follows - Amendment of section 15 - possession and use of firearms and bullet-proof vests
 - (a) by repealing subsection (5) and substituting the following subsection -

“ (5) Whoever contravenes this section is guilty of an offence and, subject to section 38A, is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.”; and

(b) by repealing subsection (6).

Amendment of section 18 - restriction relating to the discharge and carriage of firearms and the wearing of bullet-proof vests

4. The principal Law is amended in section 18 as follows -

(a) by repealing subsection (6) and substituting the following subsection -

“ (6) Whoever has with him a firearm or imitation firearm with intent to commit an offence, to resist arrest or to prevent the arrest of another person, in either case while he has the firearm or imitation firearm with him, is guilty of an offence and, subject to section 38A, is liable on conviction to a fine of one hundred thousand dollars and to imprisonment for twenty years.”; and

(b) by repealing subsection (18).

Amendment of section 38 - Category B offence

5. The principal Law is amended in section 38(1) by deleting “15(3)” and substituting “15(5)”.

Insertion of section 38A - minimum sentences for certain offences

6. The principal Law is amended by inserting after section 38 the following section -

“Minimum sentences for certain offences

38A. (1) This section applies where -

- (a) an individual is convicted, by a court of summary jurisdiction or the Grand Court, of an offence under section 3(3), 15(5) or 18(6);
- (b) the offence was committed on or after 15 November, 2005; and
- (c) the offence is in respect of a machine gun, sub-machine gun, rifle, shot gun, pistol, or any lethal barrelled weapon from which any shot, bullet or other missile can be discharged.

(2) Notwithstanding sections 6(2) and 8 of the Criminal Procedure Code (2006 Revision), the court of summary jurisdiction or the Grand Court before which the individual is convicted, shall impose a sentence of imprisonment for a term of at least ten years (with or without a fine), unless the relevant court is of the opinion that there are exceptional circumstances relating to the offence or to the

offender which justify its not doing so; and such exceptional circumstances shall be stated by the relevant court.

(3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.”.

7. (1) Where -

Savings and transitional provisions

- (a) prior to the date of commencement of this Law, an accused person is convicted of or pleads guilty to an offence (irrespective of when the offence was committed); and
- (b) at the date of commencement of this Law, no judgment or sentence has been passed upon him in respect of the offence,

the accused person shall, for the purpose of the judgment or sentence, be dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.

(2) Where, at the date of commencement of this Law, any trial or any proceedings in respect of an offence are pending before a court, the trial or proceedings shall, after that date, be dealt with in all respects under the new Law (irrespective of when the offence was committed) and the provisions of the new Law are to apply accordingly.

(3) Where, on or after the date of commencement of this Law, an accused person is convicted of or pleads guilty to an offence (irrespective of when the offence was committed), the accused person shall, for the purpose of judgment or sentence in respect of the offence, be dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.

(4) In this section -

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the day of , 2007.

Speaker.

Clerk of the Legislative Assembly.