

LICENSING OF ARMS AND AMMUNITION IN MALAYSIA

by

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ABSTRACT

The regulation of arms and ammunition holds significant importance in ensuring public safety and security within any nation. This article delves into the context of Malaysia's licensing framework concerning arms and ammunition. It scrutinises the legal provisions, historical development, and contemporary challenges within the Malaysian regulatory regime. By analysing existing laws, policies, and their practical implications, this article aims to provide a comprehensive understanding of the licensing procedures, limitations, and their impact on society.

INTRODUCTION

The regulation of arms and ammunition is a critical aspect of maintaining law and order within any society. In Malaysia, the licensing of arms and ammunition is generally governed by the **Arms Act 1960 ('AA 1960')**^[1] and the **Arms Licensing Regulations 1961 ('ALR 1961')**,^[2] aimed at controlling the possession, sale, and use of firearms and ammunition.

The licensing system in Malaysia is designed to strike a balance between the individual's right to possess firearms for legitimate purposes, such as self-defence, hunting, and sport, and the overarching need to ensure public safety and security.

This article aims to analyse the current state of arms and ammunition licensing in Malaysia. It will examine the legal framework, explore the procedures involved in obtaining licenses, and discuss the limitations as well as the exemptions.

DEFINITION OF CERTAIN TERMS UNDER THE AA 1960

Understanding what qualifies as ‘ammunition’ and ‘arm’ under the AA 1960 is crucial. Notably, certain terms have been selectively chosen to facilitate clearer comprehension:

Phrase	Definition under AA 1960^[3]
Ammunition	Means ammunition (including blank ammunition) for any arm as hereinafter defined, and includes grenades, bombs and other like missiles, whether capable of use with arms or not, and any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or other thing.
Arm	Means any lethal barrelled weapon of any description from which any shot, bullet or other missile can be discharged, or which can be adapted for the discharge of any such shot, bullet or other missile, and any weapon of whatever description designed or adapted or which can be adapted for the discharge of any noxious liquid, gas or other thing, and includes an air gun, air pistol, automatic gun, pistol and any component parts of any such weapon, and any accessory to those weapons designed or adapted to diminish the noise or flash caused by firing the weapon.
Arms licence (license)	Means a licence granted under section 4
Arms permit	Means a permit to carry and use arms and ammunition granted under section 4

Chief Police Officer	Includes a Commissioner of Police vested with the control of the Royal Malaysia Police in respect of any area or State
Officer in Charge of a Police District	And “police officer” shall have the same meanings as in the Police Act 1967 [Act 344]
Pistol	Means any arm of which the length of the barrel measured from the muzzle to the point at which the charge is exploded on firing does not exceed nine inches
Senior police officer	Means a police officer of any rank from and including the Inspector-General down to and including an Assistant Superintendent
Superior police officer	Means an Inspector of any grade other than a Sub-Inspector

By applying the literal rule, which advocates interpreting legislation in accordance with its plain and ordinary meaning, it becomes evident that the broad definitions of ‘ammunition’, ‘arm’ and ‘pistol’ provided in the said section cover almost all types of weapons, ammunition, and devices.

PROHIBITION OF POSSESSING, CARRYING OR USING ARMS OR AMMUNITION WITHOUT A VALID LICENSE OR PERMIT

Section 3(1) of the AA 1960 explicitly prohibits any person, except as provided by the Act or any other law in force, from possessing, carrying, or using arms or ammunition without a valid license or permit issued under section 4 of the same Act.

Anyone who possesses, carries or uses arms or ammunition without a valid license or permit can be charged under **section 8(a)** of the same Act, which

carries a punishment of an imprisonment term not exceeding seven years, or a fine not exceeding RM10,000, or to both.^[4]

Despite having a valid license or permit, one can still be charged under **section 8(b)** of the Act for failing to comply with any condition or to observe any restriction contained in the arms license or permit granted.

APPLICATION OF AN ARMS LICENSE

The Royal Malaysia Police ('RMP') holds the authority to issue arms licenses and permits. Generally, RMP involves the issuance of two distinct types of licenses:^[5]

- i. **Arms License**,^[6] commonly known as '*Lesen A*' or '*Green Booklet*.'
- ii. **Arms Permit**,^[7] commonly known as '*Lesen B*' or '*Carry and Use Permit*' or '*Red Booklet*.'

The application process commences as per the codified **section 4(1) of the AA 1960**, which reads:

'An application for an arms license or arms permit shall be made in the prescribed form to the Chief Police Officer of the State in which the applicant resides, and shall state such particulars as may be required by the said form.'

Further reference shall be made to **regulation 5** of the ALR 1961, which reads:

'5(1) Any person making an application for a licence or permit shall supply, and any person making an application for the renewal of the licence or permit may be required to supply, two unmounted duplicate photographs showing a true likeness of himself, taken in accordance with the conditions laid down in the National Registration (Control of Photographs) Regulations 1960 [LN 99/60], or submit to all steps as may be reasonably necessary for

the taking of photographs of himself in accordance with any directions given by the licensing officer.

- 5(2) Any person making an application for a licence or permit or for the renewal of a licence or permit may be required to submit to all such steps as may be reasonably necessary for the taking and recording of his finger impressions.'

The application for an arms license or arms permit starts with the completion of **Form 1** of the ALR 1961,^[8] or commonly known as the Pol 128 by the RMP^[9] together with two unmounted duplicate photographs of the applicant.^[10] Upon completion, the said form shall be submitted to the District Police Headquarters (*Ibu Pejabat Polis Daerah*) where all fingerprints of the applicant will be recorded.^[11] The applicant will then be subjected to background checks and interviews conducted by the RMP.

The decision to recommend or reject the application lies with the Officer in Charge of a Police District ('OCPD'), who then forwards it to the next stage: the Contingent Police Headquarters (*Ibu Pejabat Polis Kontinjen*). Here, the State Police Chief (*Ketua Polis Negeri*) provides further recommendations. Ultimately, the Inspector General of Police (*Ketua Polis Negara*) at the Bukit Aman police headquarters holds the authority to make the final decision on whether to grant the arms license.

It is worth noting that the arms license would require a natural person to be named as the licensee.^[12] For instance, in the case of a private security company eligible for firearm possession, the company must appoint a responsible person to be officially named as the licensee.^[13]

This emphasises the requirement for a natural person to assume legal responsibility for the arms license in the context of entities such as private security companies, designating a specific individual as the licensee ensures clarity and accountability in the lawful possession and use of firearms.

DIFFERENCE BETWEEN ARMS LICENSE AND ARMS PERMIT

As elucidated earlier, a common query arises regarding the distinction between an ‘arms license’ and an ‘arms permit.’ To address this, it is imperative to understand that an arms license is typically granted directly to the individual licensee, whereas an arms permit serves as a subordinate authorisation under the umbrella of an arms license.

Consider, for example, a private security company employing 50 armed security guards. In this scenario, a natural person is designated as the licensee, obtaining the arms license on behalf of the company. Subsequently, each of the 50 armed security guards is required to apply for an arms permit, utilising the same prescribed form.^[14] It is crucial to note that the rigour and scrutiny involved in obtaining an arms permit is no lesser than applying for an arms license.

APPROVAL OR REFUSALS FOR ARMS LICENSES AND PERMITS

In the assessment of approvals or refusals for arms licenses or permits, reference is made to **section 4(2)** of the AA 1960, which reads:

‘Subject to this Act and any regulations made thereunder, a Chief Police Officer may grant to an applicant an arms licence or arms permit, as the case may be, if he is satisfied that the applicant has a good reason for having in his possession, custody or control, or for carrying and using, as the case may be, the arms and ammunition in respect of which the application is made, and that he can be authorised in that behalf without danger to the public safety or the public interest.’

The terms ‘good reason’ and ‘without danger to public safety or the public interest’ are crucial aspects of evaluating applications, yet the current legal framework does not explicitly define or elaborate on these criteria. What may be of public interest in one place may differ from another.^[15] This lack of clarity leaves room for interpretation and may lead to uncertainties in the application process for arms licenses and permits. Consequently,

regulatory authorities are tasked with applying a subjective assessment, potentially resulting in varying interpretations and decisions.

The absence of specific guidelines raises the need for further legal clarity and definition in the statute or regulations to ensure a standardised and transparent evaluation process. A more precise definition of these terms would contribute to a more consistent and equitable application of the law, reducing ambiguity for both applicants and regulatory authorities involved in the arms licensing process.

APPEAL FOR REFUSAL OF ARMS LICENSE OR PERMIT TO THE MINISTER

Any individual aggrieved by the denial or non-renewal of a license or permit, or by the imposition of specific conditions by the authorising officer, or by the revocation or suspension of such license or permit has the right to file a written appeal to the Minister of Home Affairs within one month from the date of the adverse decision.^[16]

The Minister's ruling on the matter shall be deemed ultimate and binding. This provision ensures a legal recourse for those dissatisfied with licensing or permit-related decisions, offering an avenue for appeal and resolution within a specified timeframe.

PURPOSE, CONDITIONS AND RESTRICTIONS OF ARMS LICENSES AND PERMITS

Once an arms license or permit is issued in such form as may be prescribed,^[17] conditions and restrictions shall be expressly specified within the license or permit.^[18]

The purpose of the arms license or permit issued can be of one or more of the following:^[19]

- i. Agriculture (Pest Control);
- ii. Sporting;

- iii. Hunting;
- iv. Self/property protection.

The arms license or permit shall contain the nature and number or other identification mark of the arms, as well as the quantity of ammunition authorised to be held at any one time.^[20] This would usually include the quantity, brand, serial number, calibre, and type of the licensed firearm. The permissible quantity of ammunition to be held at any one time is solely determined by the RMP at the time of this writing.

Certain arms licenses and permits are being issued with specific restrictions, tailoring the use of firearms to particular purposes and designated locations. This is notably evident in licenses and permits issued for sports shooting.

RENEWAL OF ARMS LICENSES AND PERMITS

An arms license or permit has an expiration date set on the 30th day of June each year.^[21] When renewed, the validity of the license or permit is extended for an additional year.

As a standard procedure implemented by the RMP, the renewal process for both arms licenses and permits entails license or permit holders participating in a shooting test at a designated shooting range. This practice is designed to assess and confirm that the licensee has responsibly maintained their firearms and possesses the necessary competence in their usage. The shooting test serves as a practical measure to ensure that individuals renewing their licenses or permits are competent in handling and utilising firearms, contributing to the overall safety and accountability within the licensing framework.

PROHIBITION OF FIREARMS AND AMMUNITION FOR LICENSING

The primary restriction in the issuance of arms licenses and permits is determined by the type of firearm and ammunition, as outlined in **section 5(1)** of the AA 1960. The types of firearms and ammunition which are prohibited are as follows:

Section under AA 1960	Type of Firearm/Ammunition
5(1)(a)	A pump or repeating shotgun of any kind, unless the magazine of the gun is so constructed or permanently plugged as to render it incapable of firing more than one cartridge at each pressure of the trigger or, in the case of a double-barrelled gun, one cartridge from each barrel
5(1)(b)	An arm that is so designed or adapted that if pressure is applied to the trigger missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty
5(1)(c)	Any arm of any description designed or adapted for the discharge of any noxious liquid, gas or other thing
5(1)(d)	Any grenade or bomb or other like missile
5(1)(e)	Any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing

The prohibition of certain firearms and ammunition is explicitly depicted, typically encompassing firearms that have the potential to inflict excessive damage, with due consideration given to public policy.

Automatic weapons, missiles, grenades, and other biochemical weapons fall under strict prohibition, barring them from being licensed. This stringent stance reflects a commitment to public safety and aligns with broader societal interests and security concerns.

APPLICATION OF ARMS CARD (*KAD SENJATA*)

In 2016, the Minister of Home Affairs introduced the Arms Card (*Kad Senjata*) initiative. Individuals holding an arms license or permit are required to apply for an Arms Card through the licensing officer at the Royal Malaysia Police.^[22]

AGE RESTRICTION

The issuance or renewal of arms licenses or permits is expressly limited to individuals who have attained the age of 18 years. However, a provision allows for flexibility in exceptional cases involving individuals aged at least 16 but under 18.^[23] In such instances, the Chief Police Officer of the respective State holds discretionary power to assess unique circumstances that could justify granting or renewing a license for the individual.

This discretionary authority empowers the Chief Police Officer to waive the age restriction under specific circumstances, provided there is a compelling justification for doing so. Importantly, the Chief Police Officer is mandated to thoroughly document the reasons supporting the decision to grant or renew the arms license or permit to an individual below the age of 18. This ensures transparency and accountability in the decision-making process, aligning with the overarching goal of balancing individual circumstances with the broader considerations of public safety and security.

YANG DI-PERTUAN AGONG, RULER OF THE STATE, OR YANG DI-PERTUA NEGERI OF ANY STATE EXEMPTED TO HOLD ARMS LICENCES OR ARMS PERMITS

It has been codified in **section 6(1)** of the AA 1960 whereby **section 3** of the same Act does not apply to the Yang di-Pertuan Agong, Ruler of the State, or Yang di-Pertua Negeri of any State.

However, an annual report must be submitted to the Chief Police Officer in July each year. This report, prepared by an individual appointed by the Yang di-Pertuan Agong, Ruler, or Yang di-Pertua Negeri, should provide details on all firearms and ammunition under the possession, custody, or control of the Yang di-Pertuan Agong, Ruler, or Yang di-Pertua Negeri for which no valid arms license is in effect.

EXEMPTIONS FROM REQUIREMENTS TO HOLD ARMS LICENCES OR ARMS PERMITS

There have been specific circumstances or categories of individuals who are relieved from the obligation to obtain such licenses or permits for the possession, use, or transportation of firearms and ammunition.^[24] This has been codified under **section 6(2)(a)–(g)** of the AA 1960 as follows:^[25]

Section	Category	Exemption granted under AA 1960
6(2)(a)	<ul style="list-style-type: none"> i. Licensed dealer ii. Licensed repairer iii. Any servant of the licensed dealer or repairer 	A licensed dealer or licensed repairer or any servant thereof acting in the course of his employment, may without holding an arms licence or arms permit have in his possession, custody or control, or carry or use arms or ammunition, in the ordinary course of business as that dealer or repairer, and in accordance with the terms of that dealer’s or repairer’s licence

<p>6(2)(b)</p>	<ul style="list-style-type: none"> i. Licensed manufacturer ii. Any servant of the licensed manufacturer 	<p>A licensed manufacturer or any servant thereof acting in the course of his employment, may without holding an arms licence or arms permit have in his possession, custody or control, or carry or use arms or ammunition manufactured under the licence, in the ordinary course of business as that manufacturer, and in accordance with the terms of that manufacturer’s licence</p>
<p>6(2)(c)</p>	<ul style="list-style-type: none"> i. Auctioneer ii. Carrier iii. Servant of the auctioneer or carrier 	<p>A person lawfully carrying on the business of an auctioneer or carrier or a servant of such a person acting in the course of his employment, may without holding an arms licence or arms permit have in his possession, custody or control, or convey or carry in the ordinary course of that business arms and ammunition provided that—</p> <ul style="list-style-type: none"> (i) the auctioneer or carrier has obtained permission in writing from a Chief Police Officer to sell by auction or to convey arms and ammunition; and (ii) the auctioneer, carrier or servant complies with all conditions and observes all restrictions subject to which the permission is stated in writing to be granted

<p>6(2)(d)</p>	<ul style="list-style-type: none"> i. Licensed arms and ammunition importer or exporter ii. Any servant or agent of the importer or exporter 	<p>A person licensed to import or export arms or ammunition or any servant or agent of the person may, without holding an arms licence or arms permit, have in his possession, custody or control, or carry and convey any arms or ammunition authorised to be imported or exported under the licence in such manner as may be reasonably required for the purpose of effecting the import or export</p>
<p>6(2)(e)</p>	<ul style="list-style-type: none"> i. Any member of the armed forces ii. Any police officer iii. Any person engaged in performing police duties under any written law 	<p>Any member of the armed forces, any police officer or other person engaged in performing police duties in accordance with any written law, may in the course of his duty as such without holding an arms licence or arms permit have in his possession, custody or control, or carry or use arms or ammunition</p>
<p>6(2)(f)</p>	<ul style="list-style-type: none"> i. Member of the crew of any vessel or aircraft ii. A passenger in any vessel or aircraft 	<p>A member of the crew of, or a passenger in any vessel or aircraft may, without holding an arms licence or arms permit, have in his possession, custody or control, or carry or use arms and ammunition which are part of the ordinary armament or equipment of the</p>

		<p>vessel or aircraft, or which are in or upon the vessel or aircraft and required for the services thereof</p>
<p>6(2)(g)</p>	<p>i. Member of the public</p>	<p>A person may, without holding an arms licence or arms permit, carry or use—</p> <p>(i) a miniature rifle not exceeding .22 calibre and ammunition therefor at a miniature rifle range or shooting gallery, if the rifle or ammunition is provided for his use by the owner or manager of the range or gallery, and if the range or gallery is conducted with the permission in writing of, and subjected to such conditions as may be prescribed by, the Chief Police Officer of the State in which it is situated;</p> <p>(ii) arms and blank ammunition at a theatrical performance or rehearsal thereof or at an athletic meeting in which he is taking part, if the permission in writing of the Chief Police Officer of the State in which the performance, rehearsal or meeting is taking place has been obtained to the use of the arms or ammunition in the course of the performance, rehearsal or meeting.</p>

RECENT AMENDMENTS OF THE AA 1960

The recent amendments to the AA 1960 are detailed below:

Amending Law	Short Title	In Force From
PU(A) 357/1980	Subordinate Courts Act (Extension) Order 1980	01-06-1981
PU(A) 93/1989	Arms (Amendment of Second Schedule) Regulations 1989	31-03-1989
PU(A) 19/1992	Arms Licensing (Amendment of Second Schedule) Regulations 1992	24-01-1992
PU(A) 360/2016	Arms (Amendment of Second Schedule) Regulations 2016	01-01-2017
PU(A) 41/2017	Arms (Amendment of Second Schedule) Regulations 2017	01-02-2017
PU(A) 322/2019	Arms (Amendment of Second Schedule) Regulations 2019	01-12-2019
Act 846	Abolition of Mandatory Death Penalty Act 2023	04-07-2023

The listed amendments demonstrate that the Arms Act has undergone modifications over time. However, the gaps between the amendments highlight a potential need for more frequent updates to ensure the legislation remains relevant and responsive to evolving circumstances. The Arms Act, as observed, may be perceived as an archaic law due to the extended periods between amendments, emphasising the importance of periodic reviews and revisions to address contemporary challenges and maintain the effectiveness of arms regulation.

CONCLUSION

The series of amendments reflected in the history of the Arms Act underscores its evolution over time. However, the prolonged intervals between these amendments draw attention to a potential necessity for more frequent updates. The current structure of the Arms Act, as observed, may be viewed as somewhat antiquated, emphasising the critical need for periodic reviews to ensure its continued relevance and effectiveness in regulating arms.

Upon closer scrutiny, it becomes apparent that the predominant focus of modifications has been on the Second Schedule,^[26] particularly with respect to fees. While adjustments to financial considerations are crucial for administrative sustenance, the fees associated with the Arms Act are notably nominal, and their contribution to the country's revenue is minimal.

To fortify the efficacy of the Act, it is proposed that amendments extend beyond financial considerations to encompass procedural enhancements. A more transparent and streamlined licensing procedure would not only ensure compliance with current legal standards but also cultivate a system that is accessible, accountable, and responsive to the diverse needs of the people.

Recommendations for fostering a more transparent licensing procedure include defining explicit and standardised criteria for granting arms licenses. This approach ensures that the process is fair, consistent, and

grounded in well-defined principles, thereby contributing to a more transparent evaluation of applicants.

Moreover, establishing mechanisms for public access to pertinent information regarding arms licensing procedures is vital. Clear guidelines and informational resources should be made readily available to the public, promoting awareness and understanding of the regulatory framework.

Legal experts, representatives from society, and the general public should engage in the review and amendment process can provide diverse perspectives, contributing to a more inclusive and effective regulatory framework.

A regular and systematic review mechanism for the Arms Act 1960 is recommended, ensuring it remains adaptable to changing circumstances. This could involve the establishment of a dedicated committee tasked with evaluating the law's effectiveness and proposing necessary amendments.

Additionally, leveraging modern technologies to streamline and automate licensing processes is crucial. This not only enhances efficiency but also contributes to transparency by reducing administrative complexities.

In conclusion, addressing these aspects in the amendment process can facilitate the evolution of the Arms Act 1960 into a more robust and responsive legal framework. Comprehensive revisions would modernise the legislation, reinforcing public confidence in the regulatory mechanisms governing arms possession, use, and licensing.

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Endnotes:

[¹] Arms Act 1960 (Act 206) (Revised 1978) ('AA 1960).

[2] Arms Licensing Regulations 1961 (PU(A) 303/1978) (Revised 1978) ('ALR 1961').

[3] AA 1960 s 2(1).

[4] AA 1960 s 8(a).

[5] AA 1960 s 4(2).

[6] ALR 1961 Schedule, Form 2.

[7] ALR 1961 Schedule, Form 3.

[8] ALR 1961 Schedule, Form 1.

[9] Polis 128 – Pin. 4/93.

[10] ALR 1961 reg 5(1).

[11] ALR 1961 reg 5(2).

[12] ALR 1961 Schedule, Form 1, Part A (Personal Particulars).

[13] AA 1960 s 5(3).

[14] Polis 128 – Pin. 4/93.

[15] *New Tuck Shen v PP* [1982] CLJ Rep 606.

[16] AA 1960 s 30(4).

[17] ALR 1961 Schedule, Form 2 or Form 3.

[18] ALR 1961 Schedule, Form 4.

[19] Arms Licensing (Amendment) Regulations 2016 [PU(A) 359/2016] Part B (Particulars of Arms Licence).

[20] AA 1960 s 4(3).

[21] AA 1960 s 4(4).

[22] Arms Licensing (Amendment) Regulations 2016 [PU(A) 359/2016].

[23] AA 1960 s 5(2).

[24] AA 1960 s 6.

[25] AA 1960 s 6(2)(a)–(g).

[26] AA 1960 Second Schedule.