

LAWS OF MALAYSIA

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Act 25

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**SUMMONSES AND WARRANTS
(SPECIAL PROVISIONS) ACT 1971**

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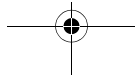
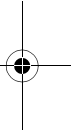
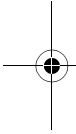
Act 25

**SUMMONSES AND WARRANTS
(SPECIAL PROVISIONS) ACT 1971**

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SUMMONSES AND WARRANTS (SPECIAL PROVISIONS) ACT 1971

An Act to make provisions for reciprocal arrangements with respect to service of summonses, subpoenas and certain warrants between Malaysia and Singapore and certain other countries.

[Throughout Malaysia—30 April 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

1. This Act may be cited as the Summonses and Warrants (Special Provisions) Act 1971*.

Interpretation

2. In this Act, unless the context otherwise requires—

“Court” has the same meaning assigned to it in the appropriate Criminal Procedure Code;

“Magistrate”—

- (a) in relation to Malaysia includes a Sessions Court Judge; and
- (b) *(Omitted)*;
- (c) in relation to Singapore includes a District Judge;

*NOTE—Extended to apply to Brunei Darussalam w.e.f. 01-11-1984 and references to Singapore shall be construed as references to Brunei Darussalam—see P.U.(A)253/1984 and P.U.(B)436/1984.

“summons” includes any subpoena or other process for requiring the attendance of a witness in a criminal trial, criminal inquiry or other criminal proceeding under the appropriate Criminal Procedure Code but does not include a summons to a juror or an assessor.

Service of summons to an accused person between Malaysia and Singapore

3. (1) Where under the provisions of any law in force in Singapore a Court or a Magistrate in Singapore has issued a summons requiring a person accused of an offence to appear before any Court in Singapore, and such person is, or is suspected of being in or on his way to Malaysia, a Magistrate in Malaysia may, if satisfied that the summons was issued by a Court or a Magistrate in Singapore, endorse the summons with his name and designation and seal it with the seal of his Court, and such summons may then be served on such person as if it were a summons issued by a Magistrate in Malaysia under the Criminal Procedure Code [*Act 593*], and such person shall, on service of the summons so endorsed, be legally bound to obey the summons, and if he intentionally omits to obey such summons he shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred ringgit, or to both, and in any such trial a certificate signed by a Magistrate in Singapore that such person had omitted to obey the summons shall be sufficient evidence that he had intentionally omitted to obey the summons unless the contrary be proved, and no process shall issue on such Magistrate in Singapore or any other officer of Court in Singapore to give evidence at such trial on behalf of any party.

(2) Where under the provisions of any law in force in Singapore corresponding to subsection (1), a summons to a person accused of an offence issued by a Court or a Magistrate in Malaysia has been endorsed by a Magistrate in Singapore and served on the person accused, such summons shall for the purposes of the Criminal Procedure Code be deemed to have been as validly served as if such service had been effected in Malaysia, and if such person intentionally omits to obey the summons he shall be liable to be tried and punished in Malaysia, and at any such trial a certificate signed by a Magistrate in Singapore that such summons was duly served on the person accused, and an affidavit of such service by the person who served the summons may be given in evidence and shall be sufficient evidence of the service of the summons unless the contrary be proved, and no process shall issue on such

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Magistrate in Singapore or any other officer of Court in Singapore or the person who served such summons to give evidence at such trial on behalf of any party.

Service of summons to a witness between Malaysia and Singapore

4. (1) Where under the provisions of any law in force in Singapore a Court, a Judge, a Magistrate, or any other officer of Court, in Singapore has issued a summons requiring a person to appear before any Court in Singapore as a witness to give evidence in any criminal trial, criminal inquiry or other criminal proceeding, and such person is, or is suspected of being in or on his way to Malaysia, a Magistrate in Malaysia may, if satisfied that the summons was issued by a Court, a Judge, a Magistrate, or other officer of Court, in Singapore, endorse the summons with his name and designation and seal it with the seal of his Court, and such summons may then be served on such person as if it were a summons issued by a Court, a Judge, a Magistrate or an officer of Court having authority to issue the same, in Malaysia under the Criminal Procedure Code, and such witness shall, on service of the summons so endorsed, and on payment or tender of a reasonable amount for his expenses, be legally bound to obey the summons, and if he intentionally omits to obey such summons he shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred ringgit, or to both, and in any such trial a certificate signed by an officer of Court in Singapore that such person had failed to obey the summons shall be sufficient evidence that he had intentionally omitted to obey the summons unless the contrary be proved, and no process shall issue on such officer of Court in Singapore to give evidence at such trial on behalf of any party.

(2) Where under the provisions of any law in force in Singapore corresponding to subsection (1) a summons requiring a person to appear before any Court in Malaysia as a witness to give evidence in any criminal trial, criminal inquiry or other criminal proceeding has been duly endorsed in Singapore and served on the witness, such summons shall for the purposes of the Criminal Procedure Code be deemed to be validly served as if such service had been effected in Malaysia, and if such person intentionally omits to obey the summons he shall be liable to be tried and punished in Malaysia, and at any such trial a certificate signed by a Magistrate in Singapore that such summons was duly served on the witness and a reasonable amount for his expenses paid or tendered to him, and

an affidavit of such service and the payment or tender of such expenses may be given in evidence and shall be sufficient evidence of the service of the summons and the payment or tender of the expenses unless the contrary be proved, and no process shall issue on such Magistrate in Singapore or any other officer of Court in Singapore or the person who served the summons and paid or tendered the expenses to give evidence at such trial on behalf of any party.

Execution of a warrant issued in lieu of or in addition to summons

5. (1) Where a Court in Singapore has issued a warrant in lieu of a summons or in addition to a summons for the arrest of a person under the provisions of the law of Singapore corresponding to section 47 of the Criminal Procedure Code, and such person is or is suspected of being in or on his way to Malaysia, a Magistrate in Malaysia may, if satisfied that such warrant was duly issued in Singapore, endorse the warrant with his name and designation and seal it with the seal of his Court, and such warrant may then be executed on such person as if it were a warrant issued in Malaysia under the Criminal Procedure Code.

(2) Where under the provisions of any law in force in Singapore corresponding to subsection (1) a warrant issued by a Court in Malaysia has been duly endorsed in Singapore and executed on the person named in the warrant, such warrant shall for the purposes of the Criminal Procedure Code be deemed to have been as validly executed as if such execution has been effected in Malaysia.

(3) Where a warrant has been executed in Malaysia pursuant to subsection (1), the person arrested shall be produced as soon as possible before a Magistrate in Malaysia, who shall, if satisfied that he is the person specified in the warrant, direct that the arrested person be transferred forthwith in custody to the appropriate Court in Singapore and any such person shall while in such custody, be deemed for all purposes to be in lawful custody:

Provided that such Magistrate may, if for reasons to be recorded by him, he is satisfied that it is in the interests of justice so to do, notwithstanding that the warrant of arrest contains no provisions for the grant of bail to the person arrested, release such person on bail conditional on his appearing before the appropriate Court in Singapore at a time to be specified in the bond and bail

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bond; and the Criminal Procedure Code relating to bail and bonds shall apply to such bond and bail bond.

(4) In addition to the liability to forfeiture of a bond and bail bond executed under the proviso to subsection (3) and to payment of the penalty thereof, the person released on such bond and bail bond who intentionally omits to appear before the appropriate Court in Singapore in accordance with the terms of the bond and bail bond shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred ringgit, or to both.

(5) In proceedings for the forfeiture of a bond and bail bond executed under the proviso to subsection (3) and for the payment of the penalty thereof, and in a trial for an offence under subsection (4) a certificate signed by a Magistrate in Singapore that the person released on such bond and bail bond had omitted to appear before the appropriate Court in Singapore in accordance with the terms of the bond and bail bond shall be sufficient evidence that the person had intentionally omitted to appear before the appropriate Court in Singapore in accordance with the terms of the bond and bail bond unless the contrary be proved, and no process shall issue on such Magistrate in Singapore or any other officer of Court in Singapore to give evidence at such proceeding on behalf of any party.

(6) The provisions of this section shall have effect notwithstanding the provisions of the Commonwealth Fugitive Criminals Act 1967 [*Act No. 54 of 1967*]*.

Proof of Singapore documents

6. Where in a proceeding under this Act a document—
- (a) purporting to be a summons, warrant or certificate and purporting to be signed or issued by a Judge, Magistrate or an officer of Court in Singapore; or
 - (b) purporting to be an affidavit of a person in Singapore and purporting to be signed by the person who made it,

*NOTE—The Commonwealth Fugitive Criminals Act 1967 has been repealed by the Extradition Act 1992 [*Act 479*]*—see* section 54 of Act 479.

is given in evidence by the prosecution, it shall be presumed until the contrary is proved that such document is such summons, warrant, certificate or affidavit, and is so signed or issued.

Reciprocal provisions

7. (1) Where the Minister is satisfied that reciprocal provisions have been made by the legislature of any country or of any territory in any country (where the legislature of such territory has power to make such provisions) for the service and enforcement of summons to accused persons and to witnesses in criminal trials, criminal inquiries and other criminal proceedings, issued from Malaysia, substantially similar to those contained in this Act, the Minister may by Order extend this Act or such provisions thereof as he deems appropriate to such country or territory, and this Act or such provisions thereof as may be specified in the Order shall thereupon apply in respect of such country or territory as though the references to Singapore were references to such country or territory.

(2) The Minister may by the same Order made under subsection (1) or by a subsequent Order, direct that this Act or such provisions thereof as may be specified in the Order shall, in relation to such country or territory, apply subject to such modifications, exceptions, conditions and qualifications as he may think fit to specify for the purpose of implementing the reciprocal provisions.

(3) Any Order made under this section shall be published in the *Gazette* and shall be laid before each House of Parliament as soon as may be after it is made.

(4) In this section, "Minister" means the Minister responsible for foreign affairs.

Rules

8. (1) The Minister responsible for justice may make rules generally for carrying this Act into effect, and, in particular but without prejudice to the generality of the foregoing, such rules may provide for—

- (a) facilitating communication between the Courts in Malaysia and the Courts in Singapore;

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- (b) the removal of persons arrested under section 5 of this Act and their control and maintenance until such time as they are handed over to the persons named in the warrants as entitled to receive them; and
- (c) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies.

(2) Any rules made under this section shall be laid before each House of Parliament.

Retrospective effect in certain cases

9. The provisions of this Act shall apply to summonses and warrants—

- (a) received in Malaysia from Singapore after the commencement of this Act notwithstanding that they were issued before the commencement of this Act or relate to offences committed before the commencement of this Act; and
- (b) received in Malaysia from Singapore before the commencement of this Act but which have not yet been served or executed.

Repeal

10. (1) The following laws are hereby repealed—

- (a) the Summonses (Special Provisions) (Singapore) Act 1969;
- (b) subsection 10(2) of the Commonwealth Fugitive Criminals Act 1967.

(2) (*Omitted*).

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LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A324	Criminal Procedure Code (Amendment and Extension) Act 1976	10-01-1976
P.U.(A)253/1984	Summonses and Warrants (Special Provisions) (Extension to Brunei Darussalam) Order 1984	01-11-1984
Act A671	Subordinate Courts (Amendment) Act 1987	22-05-1987
P.U.(A)356/1999	Revision of Laws (Rectification of Summonses and Warrants (Special Provisions) Act 1971) Order 1999	28-08-1999

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A671	22-05-1987
3	Act 160	29-08-1975
4	Act 160	29-08-1975
5	Act 160	29-08-1975
