

AN ACT TO PROVIDE FOR THE PROCUREMENT, PROMOTION AND ELIMINATION OF REGULAR OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES, AND FOR OTHER PURPOSES.

REPUBLIC ACT NO. 291, June 16, 1948

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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SHORT TITLE

This Act, divided into sections according to the following table of contents, may be cited as the "ARMED FORCES OFFICER PERSONNEL ACT of 1948."

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SECTION 1. Appointment and assignment in branch —Authorized strength of branches.—

- Officers shall be permanently appointed by the President in the Regular Force, but all appointments of general officers and colonels shall be made with the consent of the Commission on. Appointments: Provided, That appointments in the Naval Patrol will be in the Naval Patrol ranks equivalent to those of the Ground and Air Forces. Whenever grades are mentioned in this Act, it shall be deemed to include the equivalent Naval Patrol grades.

- Officers holding permanent appointments in any general officer grade in the Regular Force shall be known as General Officers of the Regular Force.

- Appointments of officers in commissioned officer grades below that of brigadier general in the Regular Force shall be made in the Air Corps, in the Naval Patrol in the Judge Advocate General's Service, and in each of the several corps of the Medical Service; but otherwise they shall be made in the Regular Force without specification of branch, arm or service. Those appointed without specification of branch, arm, or service shall be assigned, and may from time to time be transferred or reassigned, by the Secretary of National Defense in the several branches, arms and service of the Regular Force, excluding the Judge Advocate General's Service and the several corps of the Medical Service, according to the professional qualifications of the officers concerned and the needs of the branches, arms and services: Provided, That no transfers from the Air Corps and the Naval Patrol to the other branches, arms or services shall be permitted.

- The authorized active list of commissioned officer strength of the Air Corps; of the Naval Patrol; of the Judge Advocate General's Service; and of each of the several corps of the Medical Service; and of each of the several corps, arms and services of the Regular Force, in which officers are assigned as distinguished from those in which officers are appointed, shall from time to time, be determined by the Secretary of National Defense within the authorized active list of commissioned officer strength of the Regular Force and within any limitations provided by law.

- Under regulations prescribed by the Secretary of National Defense, officers appointed or assigned in one branch, arm or service, may be detailed in and for duty with any other branch, arm or service.

- Persons now vested with office in the Regular Force in the several commissioned officer grades .under appointments as officers in the several branches, arms or services, excluding those appointed in the Air Corps,

Naval Patrol, Judge Advocate General's Service, and the several corps of the Medical Service, shall be deemed to hold such office under appointments in the Regular Force without specification of branch, arm or service and to be assigned in the branch, arm or service specified in their appointments.

SEC. 2. General officers of the Regular Force.—

- There shall be maintained a seniority list of the general officers of the Regular Force. The first name on the list shall be that of the general officer most senior in the permanent general officer grade; the second name on the list shall be that of the senior next below the first; the third on the list shall be that of the senior next below the second; and so on throughout the list.
- The authorized number of general officers of the Regular Force shall be not more than one half (0.5) per centum of the total authorized officer strength of the Armed Forces: Provided, That the general officers will be allotted to the various branches, arms and services as the Secretary of National Defense shall prescribe.

SEC. 3. Authorized numbers in grades below brigadier General-Promotion list-Seniority-Date of rank.—

(a)

The names of all active list commissioned officers of the Regular Force in permanent grades below that of brigadier general shall be carried on promotion lists hereinafter prescribed and such officers may be referred to as Promotion List Officers.

(b)

(1) The authorized numbers in each of the several grades in each of the several promotion lists shall be prescribed by the Secretary of National Defense by a schedule of percentages in each grade for each list, which schedule of percentages may be different for each promotion list, but the numbers thus authorized in each, of the several grades in each of the several promotion lists, shall not exceed any limitations prescribe by law and shall not exceed in any promotion list the following percentages of the total officer strength authorized for the Armed Forces: four (4) per centum in grade of colonel, ten (10) per centum in grade of lieutenant-colonel, sixteen (16) per centum in grade of major, twenty-one (21) per centum in grade of captain, and forty-eight and one-half (48.5) per centum in the combined grades of first and second lieutenants: Provided, That in the Medical Corps and Judge Advocate General's Service there shall be no second-lieutenants, and the numbers authorized in the grade of first-lieutenant in such promotion list shall be all those not authorized in higher grade: Provided, further, That numbers may be authorized for any grade in any promotion list in lieu of authorizations in higher grades: And, provided, further, That this provision shall not operate to require a reduction in permanent grade of any officer in any promotion list now holding permanent appointment in any grade.

(2)

The number authorized by the Secretary of National Defense for each grade in each promotion list, may be exceeded by the number of vacancies existing in higher grades in that list.

(c)

Promotion Lists. (1) The Regular Force promotion list shall contain the names of all promotion list officers except officers of the Air Corps, Naval Patrol, Judge Advocate General's Service, and the several corps of the Medical Service.

(2)

The Air Corps promotion list shall contain the names of all promotion list officers of the Air Corps.

(3)

The Naval Patrol promotion list shall contain the names of all promotion list officers of the Naval Patrol.

(4)

The Judge Advocate General's Service promotion list shall contain the names of all promotion list officers of the Judge Advocate General's Service.

(5)

The Medical Corps promotion list shall contain the names of all promotion list officers of the Medical Corps.

(6)

The Dental Corps promotion list shall contain the names of all promotion list officers of the Dental Corps.

(7)

The Veterinary Corps promotion list shall contain the names of all promotion list officers of the Veterinary Corps.

(8)

The Nurse Corps promotion list shall contain the names of all promotion list officers of the Nurse Corps.

(d)

Date in Rank and Seniority in Permanent Grade.

(1)

On each of the several promotion lists, names of officers shall be arranged by grade in which the officers hold permanent appointments in the Regular Force in the following order: First, colonels; second, lieutenant-colonels; third, majors; fourth, captains; fifth, first-lieutenants; and sixth, second-lieutenants.

The words "grade," "senior" and "seniority" as used in this section mean "permanent grade," "senior in permanent grade," and "permanent grade seniority," respectively.

(2)

Among officers of the same grade and promotion list, names shall be arranged as provided in this act and seniority among such officers shall be established thereby. The officer whose name appears first on such list shall be the senior, the officer whose name appears second on the list shall be the senior next below the first, the officer whose name appears third on the list shall be the senior next below the second, and so on throughout the list.

(3)

Among officers of the same grade whose names are not contained on the same promotion list, the officer with the earliest date of rank shall be the senior, and in cases of same date of rank, the officer with the greatest amount of continuous active commissioned service shall be the senior, and in cases when this is the same, seniority shall be established at the time of original appointment in the Regular Force, and in cases not covered by the foregoing, as established by the Secretary of National Defense. Any officer transferred from one branch, arm or service to another, the officers of which are contained on a different promotion list, shall have his name entered upon such new promotion list among the officers in his grade in accordance with their relative seniority as hereinabove defined.

(4)

Unless specifically provided otherwise, upon appointment of a promotion list officer in any grade, such

officer's name shall be placed at the bottom of the list of officers of the grade in which appointed.

(e)

The President shall cause the names of officers of the Regular Force to be carried on promotion list which shall establish permanently the relative seniority of such officers, subject to exceptions made in accordance with this Act: Provided, That the Seniority and Lineal Rosters of regular officers as of 6 August 1941, as corrected, shall be the basis of all lists that may be made in compliance to this Act: And provided further, That within the period of one year after the passage of this Act, the President of the Philippines may make the necessary adjustment in the seniority and lineal rosters of regular officers by promoting any officer not more than one grade for outstanding merit, proven loyalty and war records.

(f)

Except as otherwise provided in this Act, the date of rank of an officer in the Regular Force, shall be the date of appointment in that rank in the Regular Force.

(g)

The Chief of Staff shall cause all changes occasioned by separations, appointments, loss of rank by action of court martial, and all other changes due to the operations of law or regulations to be entered on the approved promotion lists, and as corrected, these lists shall be published to the Armed Forces at least once each year.

SEC. 4. Procurement of additional officers.—

- Within the authorized active list commissioned officer strength of the Regular Force, the President is authorized to appoint additional officers in the Regular Force in commissioned officer grades as hereinafter, in this section, prescribed, subject to the condition and limitations set forth.

- All persons appointed officers in the Regular Force pursuant to this section shall be natural-born citizens of the Philippines, not less than twenty-one nor more than twenty-six years of age, of good moral character, physically qualified for active military service, and shall have such other qualifications as may be prescribed by the Secretary of National Defense: Provided, That persons appointed in the Air Corps shall be not less than nineteen years of age.

- Except as hereinafter authorized or unless otherwise expressly provided by law, all initial appointments of Regular Officers shall be in the grade of second-lieutenant. Priority in filling vacancies in the grade of second-lieutenant will be given: first, to graduates of the Philippine Military Academy or of the United States Military or Naval Academy, or Philippine Air Force or United States Air Force Flying Schools; second, to honor graduates of senior military training units in schools and colleges; third, to enlisted men who, at the time of appointment, shall have served for at least one full term of enlistment in the Armed Forces of the Philippines and have such other qualifications as may be prescribed by the Secretary of National Defense; and fourth, others who shall have such qualifications as the Secretary of National Defense shall prescribe: Provided, That original appointments in the Judge Advocate General's Service and the Medical Corps shall be in the grade of first-lieutenant from among applicants who, at the time of appointment, shall be not less than twenty-five nor more than thirty-five years of age, and in addition have engaged in the practice of law for at least two years, if appointment is to be made in the Judge Advocate General's Service; and shall have engaged in the practice of medicine for at least two years, if appointment is to be in the Medical Corps: Provided, further, That the President may appoint professors without military rank for the Military Academy, with such compensation as he may prescribe or in such commissioned grades of the Regular Force as he may determine, such professors, associate professors and assistant professors, to be carried as separate roster and in addition to the number of commissioned officers prescribed.

- When any cadet of the Philippine Military Academy or of the United States Military or Naval Academy or

Philippine Air Force or United States Air Force Flying Schools has completed the prescribed course of instruction, he may, upon graduation, be appointed as second-lieutenant in the Regular Force, and whenever any such appointment would result in there being a number of active list commissioned officers in the Regular Force in excess of the authorized officer strength, such strength shall be temporarily increased as necessary to authorize such appointment. The graduates of each class shall be assigned relative seniority among themselves under regulations prescribed by the Secretary of National Defense.

- The appointment of an officer in the grade of second-lieutenant, who is found not fully qualified, may be revoked by the President at any time, upon the recommendation of the Secretary of National Defense.

SEC. 5. Selection boards-Promotions general.—

(a) Unless expressly provided otherwise by some provision of law, promotion list officers of the Regular Force shall be permanently promoted to and appointed in the grades of lieutenant-colonel, major, captain and first-lieutenant in the Regular Force only when recommended for promotion to those grades by a selection board as provided in this Act. Promotion to the grade of colonel, brigadier-general and major-general or higher grade shall be as prescribed in sections eight and nine of this Act.***

(2) There shall be one selection board of the Air Corps, another for the Naval Patrol, and such number of selection boards as may be necessary to act on all the other regular officers of the Armed Forces: Provided, That selection boards for the promotion of officers to the grades of first-lieutenants and captain shall be separate from those for the promotion of officers to the grades of major and lieutenant-colonels. Selection boards shall be convened from time to time and under such regulations as the Secretary of National Defense may prescribe. Board members shall be appointed by the Secretary of National Defense. There shall be not less than five members on each board.

(3) Selection boards shall serve for such length of time as the Secretary of National Defense may prescribe but no one board shall serve longer than one year. No officer shall serve on two consecutive selection boards when the second of such boards considers any of the officers who were considered but not recommended for that grade by the first. Neither the Chief of Staff nor the Deputy Chief of Staff nor the Assistant Chief of Staff for Personnel and Administration, G-1, may become a member of any selection board.

(4) Board members must be senior in permanent grade and temporary rank to any officer being considered by their board. They must be Regular Force Officers holding commissions in a grade above that of Captain: Provided, That qualifications for membership in selection boards for the Air Corps and Naval Patrol shall be as the Secretary of National Defense may prescribe.

(5) A majority of the total members of any board must agree on each of the officers recommended for promotion by that board.

(6) The President may remove from the list submitted by any selection board the name of any officer recommended for promotion to any grade who, in his opinion, is not qualified for promotion. Any officer whose name is removed from such list by the President shall continue to be eligible for consideration for promotion as though he had not been considered for that grade by the selection board which had recommended him, and the next succeeding selection board may select and recommend the officer concerned for promotion, and when promoted such officer shall take the same date of rank and place on the promotion list he would have had, had he been promoted as the result of his original selection; however, should any officer having once been selected for promotion to any grade under section six or section seven of this Act fail of promotion to such grade by virtue of having his name removed by the President from the list submitted by any selection board, again fail of promotion to the next higher grade either (a) by being considered but not selected by the next succeeding board, or (b) by virtue of having his name removed from such list by the President, he shall be deemed to have twice failed of selection and shall be eliminated from the active list of the Regular Force in accordance with the provisions of section six (f) and section seven (f) of this Act.

(7) Officers who had been recommended for promotion to any grade under the provisions of this Act, who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty, shall be retired in the grade for which they are recommended unless entitled to a higher rank under

provision of law.

(8) Each member of a selection board provided for in this Act shall swear or affirm that he will, without prejudice or partiality, and having in view both the specific fitness of officers and the efficiency of the Armed Forces, perform the duties imposed upon him as herein provided.

(b) In time of emergency declared by the President or the Congress or in time of war, the President is authorized, in his discretion, to suspend the operation of any part or parts of the several provisions of law pertaining to promotions.

(c) Any officer eligible for consideration by a selection board shall have the right to forward, through official channels, at any time not later than ten days after the convening of said board, a written communication inviting attention to any matter of record in the Headquarters National Defense Forces, concerning himself which he deems important in the consideration of this case.

(d) Hereafter, each officer of the Regular Force shall receive, in addition to his monthly base pay, longevity pay equivalent to ten per centum of the monthly base pay authorized for his grade for each term of five years of faithful and efficient service heretofore or hereafter rendered as an officer in the Regular Force, such additional pay to be compounded every five years: Provided, That the total amount of longevity pay shall not exceed fifty per centum of the officer's monthly base pay as prescribed by law: Provided, further, That nothing in this section shall be construed as authorizing the payment of any back longevity pay for any period of service heretofore rendered.

SEC. 6. Promotion to grades of first-lieutenant and captain.—

- Irrespective of the existence of any vacancies, each promotion list officer in permanent grade of second-lieutenant and first-lieutenant shall be considered by a selection board for promotion to the grade of first-lieutenant and captain sufficiently in advance of the date on which he completes three and seven years active commissioned service, respectively, so that such officer as recommended by the selection board may be promoted to and appointed in such grade on the date on which he completes such length of service. The authorized number of officers in the grade of first-lieutenant and captain shall, from time to time, be temporarily increased as necessary to authorize such appointments.

- Whenever there are vacancies in any promotion list in the grade of first-lieutenant and captain, officers of that list in the grade of second-lieutenant and first-lieutenant may be promoted to and appointed in the grade of first-lieutenant and captain, respectively, before completion of three years' and seven years service, respectively: Provided, That the number of years of service required for the purpose of subsections(a) and (b) of this section, as necessary for promotion in the Air Corps, Naval Patrol, Judge Advocate General's Service, and the several corps of the Medical Service, shall be as the Secretary of National Defense shall prescribe.

- Second-lieutenants who are found to be not fully qualified shall have their commissions revoked and be discharged under authority of section four (e) of this Act.

- When officers in the grades of second-lieutenant and first lieutenant are to be considered by a selection board for promotion to the grades of first-lieutenant and captain, respectively, to fill vacancies in these grades, existing or anticipated, selection boards shall consider officers in the grades of second-lieutenant or first-lieutenant as the case may be in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade concerned, pass over those who are not fully qualified for promotion to such grade, and continue such procedure until a specified number of recommended officers is obtained. No officer in any list submitted by any selection board shall be appointed in the grade for which recommended ahead of any other officer whose name appears above his on such list.

- Any officer considered and not recommended by any selection board for the grade of captain shall be considered a "deferred officer" as defined in sub-section (e) of section seven of this Act, and shall suffer loss in precedence for promotion purposes to those officers who are recommended by the selection board which failed to recommend him. Such loss in precedence for promotion purposes shall not result in any loss in seniority by

such deferred officer until his juniors are promoted to the next higher grade.

- Deferred officers in the grade of first-lieutenant shall be considered a second time by the next selection board designated for consideration of officers of his grade and promotion list. If any officer fails of selection for the grade of captain but is subsequently recommended and promoted to that grade, his failure in the grade from which promoted shall not in any sense be counted as a failure of selection when he is subsequently considered for further promotion. If a "deferred officer" is not recommended by the next consecutive selection board, he shall be eliminated from the active list of the Regular Force and separated under the provision of section twenty-two (g) of the National Defense Act, as amended, or any other law which may hereafter be provided for such purpose.

SEC. 7. Promotion to grades of major and lieutenant-colonel-Elimination of those not promoted.—

- Promotion list officers shall be promoted to and appointed in the permanent grade of major and lieutenant-colonel in the Regular Force or eliminated from the active list as hereinafter in this section prescribed.

- Based upon the number of vacancies existing and anticipated in any promotion list in the grade of major and lieutenant-colonel, selection boards shall consider and recommend for promotion to such grades officers of that list in permanent grades of captain and major, respectively, irrespective of the length of service of such officers. The number to be recommended shall not exceed the number of vacancies existing and anticipated.

- When officers in the grade of captain and major are to be considered by a selection board for promotion to the grade of major and lieutenant-colonel, respectively, to fill vacancies in these grades, existing or anticipated, selection boards shall consider officers in the grades of captain or major as the case may be in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade concerned, pass over those who are not fully qualified for promotion to such grade, and continue such procedure until a specified number of recommended officers is obtained: Provided, That for the purpose of filling every third vacancy in the grade for to major or lieutenant-colonel in any promotion list, existing or anticipated, the selection board may recommend the best qualified officer, irrespective of his place in the promotion list: Provided, further, That any officer who is passed over by virtue of not having been selected for promotion pursuant to the preceding proviso, shall not be considered as a "deferred officer" as defined in subsection (e) of this section.

- No officer in any list submitted by any selection board shall be appointed in the grade for which recommended ahead of any other officer whose name appears above his on such list.

- The phrase "deferred officer" as used in this section means any officer considered and not recommended by any selection board for the grade of major or lieutenant-colonel under the provisions of this section. Each "deferred officer" shall suffer loss in precedence for promotion purposes to those officers who were recommended by the selection board which failed to recommend him. Such loss in precedence for promotion purposes shall not result in any loss in seniority by such deferred officer until his juniors are promoted to the next higher grade.

- Deferred officers in any grade shall be considered a second time by the next selection board designated for consideration of officers of his grade and promotion list. If an officer fails of selection for any grade but is subsequently recommended and promoted to that grade, his failure in the grade from which promoted shall not in any sense be counted as a failure of selection when he is subsequently considered for further promotion. If a "deferred officer" is not recommended by the next consecutive selection board, he shall be eliminated from the active list of the Regular Force and separated under the provisions of section twenty-two (g) of the National Defense Act, as amended, or any other law which may hereafter be provided for such purpose.

- Promotions and appointments to fill vacancies may be made at any time, but it is not mandatory that the

authorized numbers in grades in the several promotion lists be maintained.

SEC. 8. Promotion to grades of colonel and brigadier-general—

(a) Based upon the number of vacancies existing and anticipated in the grade of colonel and brigadier-general, the Secretary of National Defense shall select from among officers in the permanent grade of lieutenant-colonel and colonel those who, in his opinion, have demonstrated by actual duty and experience their capability for holding the next higher grade, and are best qualified to hold the grade of colonel and brigadier-general respectively: Provided, That an officer must have completed at least one year's service in the permanent grade of lieutenant-colonel or colonel before being eligible for selection for promotion to colonel or brigadier-general, respectively, with the consent of the Commission on Appointments of the Congress.

SEC. 9. Promotion to grade of major-general or higher grade.—

- The grade of major-general or higher grade in the active list shall be conferred only upon the officer appointed by the President, with the consent of the Commission on Appointments, to the office of Chief of Staff of the Armed Forces.
- The officer designated as Chief of Staff shall hold office for a term of three years, unless sooner terminated by the President.
- The officer shall select from among officers in the permanent grades of brigadier-general and colonel the officer who, in his opinion, is best qualified for the office of Chief of Staff: Provided, That an officer in the permanent grade of colonel must have completed at least one year's service in said grade before being nominated or appointed to occupy the office of Chief of Staff: Provided, further, That officers appointed in the Judge Advocate General's Service and the several corps of the Medical Service, shall not be eligible for nomination or appointment to the office of Chief of Staff.

SEC. 10. Elimination from active list.—

- Unless sooner retired under other provisions of law, every officer of the Regular Force, except an officer in the Air Corps, shall be retired upon completing thirty years of continuous active service or upon attaining fifty-five years of age with a minimum of fifteen years of continuous active service, "Whichever is earlier, unless the continued service of the individual is in the opinion of the President, required for the good of the service.
- Unless sooner retired under other provisions of law, every officer of the Regular Force, who is appointed in the Air Corps, shall be retired upon completing twenty-five years of continuous active service or upon attaining fifty years of age with a minimum of fifteen years of continuous active service, whichever is earlier, unless the continued service of the individual is, in the opinion of the President, required for the good of the service.
- Each officer eliminated from the active list pursuant to sub-sections (a) and (b) of this section, shall be retired with retirement pay as provided in section 4 of Commonwealth Act Numbered One hundred ninety, otherwise known as the "Philippine Army Retirement Act," or with such retirement pay as may hereafter be provided by law.

SEC. 11. Temporary promotion.—Any commissioned officer of the Regular Force may be appointed in and promoted to a temporary grade, except first-lieutenant and brigadier-general, not higher than one grade above his permanent grade, without vacating his permanent appointment: Provided, That at no time shall the number of officers holding office under permanent or temporary appointment in any grade and in any promotion list exceed the number authorized for such grade and such promotion list by any provision of law. Promotion under this section shall be on a fair and equitable basis, selection being based upon outstanding ability and efficiency under

regulations prescribed by the Secretary of National Defense.

SEC. 12. Appropriations.—Funds necessary for carrying into effect the provisions of this Act shall be included under "Purpose I-Personnel," in the annual appropriations for the Armed Forces of the Philippines.

SEC. 13. Saving clause.— Nothing in this Act shall operate to reduce the retired grade or retirement pay of an officer heretofore retired.

SEC. 14. Repeal of laws.—All laws and regulations, or provisions thereof, inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

SEC. 15. Date of effectivity.—This Act shall take effect upon its approval.

Approved, June 16, 1948.

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