

AN ACT TO ESTABLISH A UNIFORM RETIREMENT SYSTEM FOR THE ARMED FORCES OF THE PHILIPPINES, TO PROVIDE FOR SEPARATION THEREFROM, AND FOR OTHER PURPOSES.

REPUBLIC ACT NO. 340, July 26, 1948

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

TITLE I.—Retirement

SECTION 1. Retirement from the Armed Forces under this Act is optional or compulsory, and the ages and periods of service for eligibility therefor are fixed as follows:

- (a) Optional: Upon the completion of at least twenty years of continuous satisfactory active service an officer or enlisted man may, at his own request and with the approval of the President, be retired from active service.
- (b) Compulsory: Upon the completion of at least thirty years of continuous satisfactory active service or upon attaining sixty years of age with a minimum of fifteen years continuous active service, retirement shall be compulsory, unless the continued service of the officer or enlisted man is, in the opinion of the President, required for the good of the service.

SEC. 2. When an officer or enlisted man is retired under the provisions of section one above, he shall, at his option, receive a gratuity equivalent to one month of his base and longevity pay on the date of retirement for every year of service, such gratuity to be payable in one lump sum, or an annual retirement pay equivalent to two and a half per cent of the annual base and longevity pay received by him on the date of retirement for each year's active service rendered but not exceeding seventy-five per cent of the total base and longevity pay received by him on the date of retirement, such retirement pay to be payable in equal monthly installments: Provided, That this rate of retirement pay shall not be applicable to officers or enlisted men separated from the service through the action of Classification or Efficiency Boards and Courts-Martial, or as a result of their own misconduct or resignation except as provided in section eight (d) of this Act.

SEC. 3. Upon the death of an officer or enlisted man who has been retired or would, at the time when he died, have been entitled to retire under section one of this Act, the surviving legitimate, adopted or acknowledged natural children of such officer or enlisted man and/or his widow shall be entitled to receive, in equal shares and with the right of accretion, fifty per centum of the annual retirement pay which the officer or enlisted man was receiving or would have been entitled to receive if he had not died, the said amount to be payable in equal monthly installments : Provided, That in no case shall the total amount payable under this section exceed a sum equivalent to one month base and longevity pay of the officer or enlisted man at the time of his death or retirement, whichever comes first, multiplied by the years of active service rendered, less the total amount the decedent had already received as annual retirement pay at the time of his death: Provided, further, That no payment under this section shall be made to children after they have attained the age of twenty-one years or have married, nor to the widow if she remarries: Provided, finally, That no payment whatever shall be made to the widow if her marriage to the deceased officer or enlisted man was contracted after his retirement from the service.

SEC. 4. Officers and enlisted men heretofore and hereafter retired from the active service under this or any other

Act, shall continue to be borne on the Army Register and shall be placed in the retired list.

SEC. 5. Officers and enlisted men placed in the retired list shall be subject to the rules and articles of war and to trial by court-martial for any breach thereof. At any time said officers and enlisted men may be called to active service by the President. Refusal on the part of any officer or enlisted man to perform such services shall terminate his right to further participation in the benefits of this Act provided he resides in the Philippines and is physically fit for service. Such fitness for service shall be determined by applicable regulations.

SEC. 6. When called for active service retired officers and enlisted men shall receive the full pay of their rank or grade. While on inactive status they shall be entitled to the same privileges as officers and enlisted men in the active service, subject to such rules and regulations as the President may promulgate.

SEC. 7. An officer placed on the retired list shall be withdrawn from command and from the active promotional list. When he is recalled to active duty, his name shall continue to be carried in the retired list and he shall thereafter be eligible for promotion in the retired list as long as he continues on such active duty and provided he is declared eligible for promotion in accordance with pertinent rules and regulations provided therefor: Provided, That such promotion shall be governed by seniority in the corresponding grade or rank, seniority to be determined by the length of active service rendered in each grade.

TITLE II.—Separation

SEC. 8. An officer of the Regular Force separated from the service by the President on recommendation of Classification or Efficiency Boards for causes not due to his own misconduct, willful failure, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, shall—

- (a) If on the date of separation he has completed less than three years of active service, be honorably discharged in the grade then held;
- (b) If on the date of separation he has completed three or more but less than ten years of active service, be honorably discharged in the grade then held with separation pay equal to three months' base and longevity pay computed upon such grade;
- (c) If on the date of separation he has completed ten or more but less than twenty years of active service, be honorably discharged in the grade then held, with separation pay equal to one months base and longevity pay for each year of active service computed upon such grade;
- (d) If on the date due for separation he has completed twenty or more years of active service, be retired in the grade then held, under sections one and two of this Act.

Provided, That any officer or enlisted man of the Armed Forces of the Philippines who is separated from the active service for physical disability not due to his own misconduct, willful failure, the intemperate use of drugs or alcoholic liquor, or vicious or immoral habits, shall be placed in the retired list and shall receive either—(a) a gratuity, payable in one lump sum, equivalent to one months base and longevity pay multiplied by the years of active service rendered, but which shall not, in any case, be less than three months base and longevity pay, or (b) an annual retirement pay equivalent to two and one-half per cent of the annual base and longevity pay received by him on date of retirement for each year's active service rendered but not exceeding seventy-five per cent of the total base and longevity pay received by him on the date of retirement, such retirement pay to be paid in equal monthly installments.

TITLE III.—General Provisions

SEC. 9. For the purposes of this Act, the periods of service of an officer or enlisted man shall be credited as follows:

- (a) Active service rendered by him as a commissioned officer or enlisted man of the Philippine Constabulary,

of the Regular or Reserve Force, Army or Armed Forces of the Philippines, of the Philippine National Guard, and as a cadet in the Philippine Constabulary or Philippine Military Academy, in the United States Military or Naval Academy, or in a Philippine or American Air Forces Flying School, or as a recognized guerrilla, shall be given full credit: Provided, That any officer who was not immediately commissioned upon graduation from the Philippine Constabulary or Philippine Military Academy or from the United States Military or Naval Academy or Philippine or American Air Forces Flying School prior to nineteen hundred thirty-six for reasons not due to his own act or omission shall be deemed to have been in the active service for all purposes of this Act from the date of his graduation.

(b) Active service rendered by him as a commissioned officer or enlisted man of the Army of the United States or Philippine Scouts up to July fourth, nineteen hundred and forty-six, shall in any case be counted in determining whether he has completed the minimum or maximum length of service for retirement under section one of this Act.

(c) If he has rendered at least ten years of active service in the Army or Armed Forces of the Philippines, service rendered by him as in (b) above shall be counted in computing the amount of his retirement pay or gratuity under section two, or the amount of gratuity incident to his separation for physical disability under the proviso contained in section eight, of this Act: Provided, That in no case shall any period of service for which an officer or enlisted man has received or is receiving retirement pay from the United States Government be counted in computing the amount of retirement pay or gratuity which he shall be entitled to receive from the Philippine Government. If he has rendered less than ten years of service in the Army or Armed Forces of the Philippines, then only the number of years actually served therein shall be counted in computing the amount of retirement pay or gratuity payable to him under this Act.

(d) Any period of service amounting to six months or more shall be counted as a complete year.

SEC. 10. An officer who is entitled to the benefits of this Act shall be retired or separated from the service in the next higher rank to which, under applicable laws and regulations, he is eligible for promotion, or in such higher temporary rank which he may be holding at the time of his retirement or separation. The gratuity or retirement pay provided in section two, and the separation pay provided in section eight of this Act shall be computed upon the basis of such higher rank in which the officer may be retired or separated.

SEC. 11. There shall be annually included under "Purpose I—Personnel" of the annual appropriations for the Armed Forces of the Philippines, sufficient amounts to cover payments under sections two, three and eight of this Act, payment of pensions to officers and enlisted men heretofore retired under the provisions of Commonwealth Act Numbered One hundred and ninety, and the payment of gratuities to officers heretofore separated under the provisions of section twenty-two (g) of Commonwealth Act Numbered One: Provided, however, That if the funds so appropriated are inadequate, any provision of existing law to the contrary notwithstanding, the President of the Philippines is authorized to set aside any unexpended balance of appropriation for the Armed Forces of the Philippines at the end of every fiscal year to augment the original appropriation for the year and the two sums together will form a continuing Special Fund for the purpose of carrying out the provisions of this Act.

SEC. 12. Commonwealth Acts Numbered One hundred and fifty, as amended, and One hundred and ninety, section twenty-two (g) of Commonwealth Act Numbered One, as amended, and all other laws and Executive Orders or portions thereof, inconsistent with the provisions of this Act, are hereby repealed.

SEC. 13. This Act shall be known as the "Armed Forces Retirement Act." It shall be applicable to members of the Regular Force and Reserve Force, except where a specific-provision is made expressly applicable to members of the Regular Force: Provided, That for purposes of retirement under subsections (a) or (b) of section one of this Act, the sum total of the several tours of active duty performed by an officer or enlisted man of the Reserve Force or the sum total of the several enlistments of an enlisted man in the Regular Force, shall be deemed as "continuous" active service: Provided, further, That when a reserve officer is integrated into the Regular Force, his

tours of active duty as a reserve officer shall be included in the computation of his continuous service as a regular officer: Provided, finally, That from and after the effectivity of this Act when a regular officer resigns his commission, his past services as a regular officer shall not be given credit for purpose of retirement.

SEC. 14. This Act shall take effect upon its approval, but the provisions of sections two and three hereof shall be given retroactive effect with respect to officers and enlisted men who died after December eight, nineteen hundred and forty-one and who did not apply for retirement under Commonwealth Act One hundred and ninety during their lifetime but were, at the time of their death and by reason of length of service, otherwise entitled to retire under said Act: Provided, That no provision of this Act shall operate to reduce the retirement pay or gratuity which any retired officer or enlisted man is receiving at the time this Act takes effect.

Approved, July 26, 1948.

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