

AN ACT TO AMEND SECTIONS SEVENTEEN, NINETEEN, TWENTY-TWO, TWENTY-FIVE, THIRTY-ONE, FORTY, FIFTY-TWO, SEVENTY-SIX-A, SEVENTY-EIGHT, EIGHTY-NINE, NINETY-FIVE AND NINETY-SEVEN OF C...

Commonwealth Act No. 385, September 05, 1938

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Be it enacted by the National Assembly of the Philippines:

SECTION 1. Section seventeen of the National Defense Act is hereby amended so as to read as follows:

"SEC. 17. "The Army of the Philippines shall consist of the Regular Force and the Reserve Force: Provided, That, members of the Reserve Force on inactive status shall not, by reason solely of their appointments, oaths, commissions, or status as such, be held or deemed to be officers or employees in the Philippine Civil Service."

SEC. 2. Section nineteen of the National Defense Act is hereby amended so as to read as follows:

"SEC. 19. The Regular Force shall consist of the Infantry, the Cavalry, the Field Artillery, the Coast Artillery Corps, the Air Corps, the Corps of Engineers, the Chemical Corps, the Signal Corps and the active elements of the Offshore Patrol; the General Staff Corps; the services consisting of the Adjutant General's Service, the Judge Advocate Service; the Quartermaster Service, the Medical Service, the Ordnance Service and the Chaplain Service, the professors and cadets of the Military Academy; of detached officers, of detached enlisted men, of unassigned recruits, of such other officers and enlisted men as may be provided for and of the Constabulary. Officers and enlisted men permanently assigned to the services shall be known as officers and enlisted men of the Staff; officers and enlisted men not permanently assigned to a service shall be known as officers and enlisted men of the line.

"In time of peace the number of active commissioned officers and of active enlisted men required for the Regular Force shall be recommended annually by the Chief of Staff.

"In so far as may be practicable, the commissioned and enlisted personnel of the Regular Force shall be drawn from all provinces of the Philippines."

SEC. 3. Paragraphs (c) and (g) of section twenty-two of the National Defense Act are amended so "as to read as follows:

"SEC. 22. The appointment, promotion, and discharge of officers in the Army shall be as follows:

"(c) Except as hereinafter authorized, all appointments of regular officers shall be in the grade of third lieutenant, from among applicants who at the time of appointment shall be not less than twenty-one nor more than twenty-six years of age. Priority in filling vacancies in the grade of third lieutenant will be given: first, to graduates of the Military Academy of the Philippines or of the Military or Naval Academies of the United States; second, to graduates of senior military training units in schools and colleges; third, to enlisted men who at the time of appointment shall have served more than one year in the Army of the Philippines ; and, fourth, to others: Provided, That original appointments in the Medical Corps shall be in the grade of first lieutenant from among applicants who at the time of appointment shall not be less than twenty-five nor more than thirty-five

years of age: Provided, also, That during the five years following the approval of this Act, the President is authorized to fill vacancies in any commissioned grade in the Army of the Philippines by appointment of officers of the Philippine Constabulary who are citizens of the Philippines and of such officers of the Philippine Scouts and of the Officers' Reserve Corps, U. S. Army, and of graduates of the United States Naval Academy, citizens of the Philippines, as have, prior to their appointment in the Army of the Philippines, legally and honorably severed their connection with the active elements of the Army of the United States, and of such others as may qualify through professional and military examination prescribed for the purpose: Provided, further, That the President may appoint professors and assistant professors in the Department of Mathematics and Natural Philosophy, the Department of Engineering and the Department of Languages and Social Arts of the Military Academy in such commissioned grades of the regular force as he may determine and thereafter promote them under such regulations as he may prescribe, such professors and assistant professors to be carried on in a separate roster apart from the general roster of the Army and in addition to the number of commissioned officers prescribed in subparagraph (d) of this section. No transfer of these professors to other branches of the Army will be permitted: And provided finally, That an officer below field rank designated as chief of an arm or service may be promoted temporarily to the rank of major without vacating his permanent commission, such temporary rank being in addition to the authorized strength of the Officer Corps prescribed in subparagraph (d) of this section."

"SEC. 22. (g) Until superseded by laws formulated by the National Assembly for specific application to the Army of the Philippines, all regulations, courts-martial procedure and provisions of law now pertaining to the punishment, discharge, dismissal, resignation, administration, and retirement of officers and enlisted men of the Philippine Constabulary shall, as modified by provisions of this and other laws, apply to all officers and enlisted men on active duty in the Army: Provided, That an officer of the Regular force separated by the President from the service on recommendation of classification or efficiency boards for reasons other than his own misconduct, willful failure, the immoderate use of drugs or alcoholic liquor, or vicious or immoral habits, shall be entitled to a gratuity equivalent to one month of his current pay, as received by him at the time of his separation multiplied by the number of complete years of service: Provided, further, That in computing the length of service of an officer for purposes of gratuity payment, service rendered by him in the Philippine Constabulary shall be given full credit: Provided, finally, That the gratuity provided herein shall be paid from the annual appropriations of the Philippine Army."

SEC. 4. Paragraphs (d), (e) and (f) of section twenty-five of the National Defense Act are amended so as to read "as follows:

"SEC. 25. The services shall consist of the following:

"(d) The Quartermaster Service shall be charged with the purchase, procurement, storage and issue for the Army, of all supplies, except those whose procurement is assigned to other services; with the acquisition of real estate and the issue of license in connection with government military reservations; with the transportation of the Army by land and water, and with the disbursement of all funds for the National Defense, the accounting for same, and with such other fiscal duties as may be required by law or directed by the Chief of Staff; Provided, That such commissioned technical assistants from other branches or services as may be required shall be detailed to the Quartermaster Service for a period of not to exceed three years: Provided, further, That under such regulations as the Chief of Staff may prescribe, officers of the Quartermaster Service, accountable for government moneys, may entrust moneys to other officers for the purpose of having them make disbursements as their agents, and the agent officer as well as the officer who entrusts the money to him shall be bonded and held pecuniarily responsible to the Philippine Government.

"(e) The Medical Service shall consist of the Medical Corps, the Dental Corps, the Veterinary Corps, the Nurse Corps, the Medical Administrative Corps and such other corps as may be created by the President. It shall be charged with all matters pertaining to the physical examination, health and sanitation of personnel and animals of the Army.

"(f) The Ordnance Service, the Medical Service, the Air Corps, the Corps of Engineers, the Signal Corps, and the Chemical Corps shall be charged with the purchase, procurement, storage and issue of such special equipment, materials and supplies as apply to their respective services.

"These several arms and services are charged with the study, experiment and development of all special materials and equipment pertaining to them."

SEC. 5. The National Defense Act is hereby amended by inserting two new sections between sections twenty-five and twenty-six, said new sections to be known as section twenty-five-A and section twenty-five-B and which shall read as follows:

"SEC. 25-A. The Corps of Engineers is charged with all construction required for the National Defense, including land and seacoast defenses, with the maintenance and repair of all such construction and with the maintenance and operation of all utilities except such construction and such utilities as may be specifically assigned to other services by the Chief of Staff.

"SEC. 25-B. The Signal Corps shall be charged with the installation, maintenance and operation of all military signal communication systems and equipment, except the installation, maintenance and operation of such systems as may be organic to tactical units."

Sec. 6. Section thirty-one of the National Defense Act is amended so as to read as follows:

"SEC. 31. The President is authorized to appoint to the Military Academy annually, subject to such physical and mental examinations as he may prescribe, the number of cadets necessary to maintain the Cadet Corps at a strength of not to exceed three hundred and fifty. Cadets shall be selected from among qualified candidates as hereinafter provided. Candidates for admission shall be single, in good physical condition, not less than seventeen nor more than twenty-two years of age, and shall be nominated by the Members of the National Assembly, each of whom may nominate any number of candidates. The President shall appoint from among those who pass the physical and mental examinations with the highest ratings the number or numbers necessary to fill the existing vacancies: Provided, That a quota of three members of the Cadet Corps shall be allotted to each Assembly district: Provided, further. That in case no candidates from a given Assembly district attain the required minimum ratings, a second examination shall be given during the same year to nominees from that district. If on the second examination no candidate shall attain the required minimum rating, the vacancies in the district quota shall be filled by the President from successful candidates at large.

"The pay and allowances of students at the Military Academy shall be fixed by the President.

"Any student who shall, after entrance to the Academy and before completion of the prescribed course of training, be found to be physically unfit for military duty by reason of injury or disease incident to the service, shall be retired with the rank of cadet and shall be entitled to the retired pay and allowances of a third lieutenant of the Regular Force.

"Upon satisfactory completion of the course of instruction at the Military Academy, candidates shall be commissioned third lieutenants in the Regular or Reserve Forces with relative rank in the order of final general standing as determined by the Academic Board, and approved by the Chief of Staff.

"The Academic Board of the Philippine Military Academy shall be composed of the Superintendent, the Commandant of Cadets, and the heads of the departments, and shall have the power to confer the degree of bachelor of science under such rules and regulations as the chief of staff may prescribe, upon all cadets who may hereafter satisfactorily complete the approved course of studies.

"The Chief of Staff shall have authority to grant graduation leaves of absence with full pay to all graduates of the Military Academy, who receive commissions in the Regular Force, for a period not exceeding one month effective upon the date of graduation.

"Cadets may be granted leaves of absences from the Military Academy, under such rules and regulations as the

Chief of Staff may prescribe.

"Academic leaves of absences without deduction from pay or allowances may be authorized for the superintendent, professors, assistant professors, instructors and other officers of the Military Academy for the entire period of the suspension of the ordinary academic studies, under such rules and regulations as the chief of staff may prescribe: Provided, That officers of the Reserve Force assigned for duty at the Military Academy shall be entitled to the same leave privileges as are authorized the officers of the regular force."

SEC. 7. Section forty of the National Defense Act as amended by Commonwealth Act Numbered Sixty-nine is hereby further amended so as to read as follows:

"SEC. 40. In so far as may be practicable, original appointments by the President in grades above third lieutenant shall be made from among those formerly holding Reserve Commissions in the United States Army, from among former officers of the Philippine Scouts and Constabulary, from among former officers of the National Guard and from such others who possess exceptional ability or special training and skill."

SEC. 8. Section fifty-two of the National Defense Act is hereby amended so as to read as follows :

"SEC. 52. The obligation to undergo military training shall begin with youth in school, commencing at the age of ten years, and shall extend through his schooling until he shall reach the age of twenty-one years when he shall become subject to service with the colors. If at eighteen to twenty-one years of age the youth is not attending any school or college he shall enter the junior reserve subject to the exemptions prescribed in section eighty-seven of this Act. The training which he may undergo prior to the calendar year in which he attains twenty-one years of age shall be termed 'Preparatory Military Training.'

"All school girls shall receive such instruction and training as the Chief of Staff may deem necessary for auxiliary service.

"All able-bodied male citizens between the ages of twenty-years and fifty years, both inclusive, except those specifically exempted, shall be classified as follows:

"Trainees—Those between the ages of twenty and twenty-two who have been selected to receive military training.

"First Reserve—Those between the ages of twenty-two years and thirty years, both inclusive, and including also all those who have completed trainee instruction even though they may not have attained the age of twenty-two.

"Second Reserve—Those between the ages of thirty-one years and forty years, both inclusive.

"Third Reserve—Those between the ages of forty-one years and fifty years, both inclusive."

SEC. 9. Section seventy-six-A of the National Defense -Act as amended by Commonwealth Act Numbered Seventy,' is further amended so as to read as follows:

"SEC. 76-A. Any person failing to register for military service herein provided, or who shall fail to report to the corresponding Acceptance Board or to a designated training camp after having been duly notified to do so shall, upon conviction, be sentenced to serve not more than six months in prison or to pay a fine of not to exceed two hundred pesos, or both, at the discretion of the court. Conviction for this offense shall not exempt the person convicted from the military service herein required.

"The municipalities and chartered cities shall be exempt from the payment of all court and sheriff's fees in the . prosecution of cases falling under this section."

SEC. 10. Section seventy-eight of the National Defense Act is amended so as to read as follows:

"SEC. 78. On completion of his training instruction the trainees shall pass into the First Reserve where he shall be assigned to an organization. He shall continue to serve in the First Reserve to include the calendar year in which he shall reach thirty years of age. On January first of the year in which he shall become thirty-one years of age, he shall be transferred to the Second Reserve where he shall be assigned to an organization in that echelon. He shall serve in the Second Reserve to include the calendar year in which he shall become forty years of age. On January first of the year in which he shall become forty-one years of age, he shall be transferred to the Third Reserve in which he may be assigned to an organization. He shall serve in this class until he shall be fifty years of age."

SEC. 11. Section eighty-nine of Commonwealth Act Numbered One, known as the National Defense Act, as amended by Commonwealth Act Numbered Seventy-one, is hereby amended to read as follows:

"SEC. 89. The grades and pay of enlisted men shall be as follows:

"(a) Monthly base pay for enlisted men of the Regular Force shall be as follows:

Master sergeants	P45.00
First sergeants	42.50
Technical sergeants	40.50
Staff sergeants	36.00
Sergeants	30.00
Corporals.....	22.00
First-class privates	17.00
Privates	14.00

Air Corps:

Master sergeants	P85.00
Technical sergeants	80.00
Staff sergeants	75.00
First sergeants.....	42.50
Sergeants.....	36.00
Corporals.....	27.00
First-class privates	P22.00
Privates.....	17.00

Medical service:

Master sergeants	P45.00
First sergeants.....	42.50
Technical sergeants	40.50
Sergeants.....	36.00
Corporals.....	28.00
Privates	22.00

Constabulary band:

Assistant conductor of the band.....	P120.00
Soloist professors.....	80.00
First-class musicians.....	64.00
Second-class musicians.....	56.00

An enlisted man of the Regular Force who shall reenlist within two months after his discharge by reason of the expiration of his enlistment shall receive a reenlistment bonus of one month's pay of the grade held at the time of his discharge: Provided, That due to the necessity for technically trained enlisted personnel to properly maintain flying equipment, those enlisted men not to exceed fourteen per centum of the entire enlisted personnel of the unit who qualify as air mechanic, first, second and third class, shall receive a monthly pay of seventy-five pesos, fifty pesos, and twenty-five pesos, respectively: And provided, finally, That all enlisted men or air mechanics of the Air Corps who have been rendering service to the Philippine Army Air Corps prior to the date this law takes effect, shall receive the benefits of this Act.

"The total number of authorized enlisted men in each grade shall be as the President may direct, provided that the enlisted strength authorized by law is not exceeded, and pro-vided also, that of the authorized strength the percentages above the lowest grade shall be limited to as follows :

Above the second grade.....	0.69%
Above the third grade.....	1.04%
Above the fourth grade.....	1.98%
Above the fifth grade.....	3.22%
Above the sixth grade.....	17.82%
Above the seventh grade.....	33.69%
Above the eighth grade	51.14%

"(b) Grades and pay of enlisted men of the Reserves shall be the same as those of the Regular Force, except that enlisted men shall receive no pay while on an inactive status, or while undergoing annual active duty training.

SEC. 12. The National Defense Act is amended by inserting a new section between sections ninety and

ninety-one, which new section shall be known as section ninety-A and which shall read as follows:

"SEC. 90-A. When an officer of the Regular Force or a Reserve Officer ordered to extended tour of active duty suffers some injury or disease in line of duty, days lost in the treatment of such injury or disease shall not be counted against the annual leave allowance provided in sections five and seven of Commonwealth Act Numbered Two hundred twenty. An injury or disease shall be considered as acquired in line of duty when it is contracted in the service for reasons other than the officer's own misconduct, willful failure, the intemperate use of drugs or alcoholic liquor, or through vicious or immoral habits."

SEC. 13. The National Defense Act is amended by inserting a new section between sections ninety-one and ninety-two, which new section shall be known as section ninety-one-A and which shall read as follows:

"SEC. 91-A. When a trainee or an enlisted reserve while on active duty dies as a result of injury or disease contracted in the service for reasons other than his own misconduct, willful failure, the intemperate use of drugs or alcoholic liquor, or through vicious or immoral habits, the President may authorize the payment of burial expenses not exceeding thirty-five pesos and a sum not exceeding one hundred pesos to the widow or dependent child or children, or in the absence of widow or dependent child, to the parents of the deceased trainee or enlisted reserve: Provided, That injury or disease acquired while en route to or from the training station or mobilization center shall be considered as contracted in the service for the purpose of this section."

SEC. 14. Section ninety-five of the National Defense Act is amended so as to read as follows:

"SEC. 95. Reserve Officers on extended active duty with the Regular Force shall receive pay and allowance, leave with pay, free medical treatment, and other privileges as prescribed by law or regulation for Regular Officers of their respective grades.

"Officers of the Army of the United States serving as members of the National Defense Mission may be given during their period of such service, such military offices, rank, command and emoluments as the President of the Philippines may elect. The Commissions conferred upon the officers originally serving as technical advisers shall include one Field Marshal, who shall be known as the Military Adviser."

SEC. 15. A new proviso is hereby inserted at the end of the second proviso of the first paragraph of section ninety-seven of the National Defense Act, which shall read as follows:

"Provided, finally, That the President may authorize and direct that purchases of any or all items needed by the Army under any of the above purposes shall be made under the direction of the Chief of Staff without the intervention of the Division of Purchase and Supply of the Department of Finance, any provision of existing law to the contrary notwithstanding."

SEC. 16. This Act shall take effect upon its approval.

Approved, September 5, 1938.

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