

**FURTHER AMENDING ARTICLE 105 OF COMMONWEALTH ACT NO. 408, OTHERWISE KNOWN AS "ARTICLES OF WAR, ARMED FORCES OF THE PHILIPPINES," AS AMENDED BY REPUBLIC ACT NUMBERED 242 AND 516.**

*PRESIDENTIAL DECREE NO. 1968, January 11, 1985*

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WHEREAS, the disciplinary powers of commanding officers under the present Article of War 105 have not provided the desired deterrent against the commission of transgressions by members of the Armed Forces of the Philippines;

WHEREAS, the present Article of War 105 likewise is not conducive to swift and decisive disciplinary action against erring members of the Armed Forces;

WHEREAS, it is vital to make more effective these disciplinary punishments that may be imposed, enlarging the scope thereof as well as the categories of commanding officers authorized to impose disciplinary punishments, and providing for a swifter and more vigorous procedure in the imposition of disciplinary punishments, while at the same time affording members of the Armed Forces substantial justice and fairness and due process of law.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution and as Commander-in-Chief of all Armed Forces of the Philippines, do hereby order and decree as part of the law of the land as follows:

"Art. 105. Disciplinary Powers of Commanding Officers.

"a. The commanding officer of any detachment, company, battalion, squadron, commissioned vessel, or higher command, or such other officers as may be authorized by the President, may, for minor offenses, impose disciplinary punishments upon persons of his command without the intervention of a court-martial.

"b. Subject to subsection g of this article, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose one or more of the following disciplinary punishments, but shall not include confinement under guard:

(1) Upon officers of his command. —

(a) Withholding of privileges for not more than 30 consecutive days;

(b) Restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days;

(c) Arrest in quarters for not more than 15 consecutive days;

(d) Forfeiture of not more than one-half one month's base pay;

(e) Detention or withholding of not more than one-half of one month's base pay per month for three months;

(f) Deprivation of liberty on shore not exceeding 30 consecutive days; for those attached to or embarked in a commissioned vessel of the Philippine Navy.

(g) If imposed by an officer exercising general court-martial jurisdiction or by an officer of general or flag rank in command—

- (i) Withholding of privileges for not more than 60 consecutive days;
- (ii) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;
- (iii) Arrest in quarters for not more than 30 consecutive days;
- (iv) Forfeiture of not more than one-half of one month's base pay per month for three months;
- (v) Detention or withholding of not more than one-half of month's base pay for six months;
- (vi) Deprivation of liberty on shore not exceeding 60 consecutive days, for those attached to or embarked in a commissioned vessel of the Philippine Navy.

(2) Upon other personnel of his command —

- (a) Withholding of privileges for not more than 30 consecutive days;
- (b) Restriction to certain specified limits, with or without suspension from duty, for not more than 30 consecutive days;
- (c) Arrest in quarters for not more than 15 consecutive days;
- (d) Forfeiture of not more than one-half of one month's base pay;
- (e) Detention or withholding of not more than one-half of one month's base pay per month for three months;
- (f) With respect to those attached to or embarked in a commissioned vessel of the Philippine Navy—
  - (i) Deprivation of liberty on shore not exceeding 30 consecutive days;
  - (ii) Confinement on bread and water or diminished rations for not more than five consecutive days;
- (g) Confinement not under guard for not more than 15 consecutive days;
- (h) Hard labor without confinement for not more than 15 consecutive days;
- (i) Extra duties, including fatigue or other duties, for not more than 15 consecutive days;
- (j) Correctional custody for not more than 15 consecutive days;
- (k) Reduction to one or two inferior pay grades, if the grades from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction.
- (l) If imposed by an officer in the grade of lieutenant colonel or commander—
  - (i) Withholding of privileges for not more than 60 consecutive days;
  - (ii) Restriction to certain specified limits, with or without suspension from duty, for not more than 60 consecutive days;
  - (iii) Arrest in quarters for not more than 30 consecutive days;
  - (iv) Forfeiture of not more than one-half of one month's base pay for two months;
  - (v) Detention or withholding of not more than one-half of month's base pay for six months;
  - (vi) With respect to those attached to or embarked in a commissioned vessel of the Philippine Navy, deprivation of liberty on shore not exceeding 60 consecutive days, or confinement on bread and water or diminished rations for not more than five consecutive days;
  - (vii) Confinement not under guard for not more than 30 consecutive days;
  - (viii) Hard labor without confinement for not more than 30 consecutive days;
  - (ix) Extra duties, including fatigue or other duties, for not more than 45 consecutive days;
  - (x) Correctional custody for not more than 30 consecutive days;
  - (xi) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.

"c. The officer who imposes the punishment, or his successor in command may, at any time, suspend probationally any part or amount of the unexecuted punishment imposed and may suspend probationally a reduction in grade or a forfeiture, whether or not executed. He may also, at any time, remit or mitigate any part or amount of the unexecuted punishment, imposed and may set aside in whole or in part the punishment, whether

executed or not executed, and restore all rights, privileges and property affected. He may also mitigate a reduction in grade to forfeiture or detention of pay.

"d. A person punished under this article who considers his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under the preceding subsection by the officer who imposed the punishment.

"e. The imposition and enforcement of disciplinary punishment under this article for any act or omission shall not be a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

"f. A commanding officer exercising general court-martial jurisdiction or an officer of general or flag rank in command may delegate his powers under this article to a principal assistant.

"g. Under such regulations as the President may prescribe, limitations may be placed on the powers granted by this article with respect to the kind and amount of punishment authorized and the categories of commanding officers authorized to exercise these powers. Under similar regulations, rules may be prescribed with respect to the suspension, apportionment, remission, mitigation, setting aside of the punishments imposed, or the restoration of rights, privileges and property affected by the punishments imposed, and the form of records to be kept of proceedings under this article, and what categories of these proceedings shall be in writing.

" h. Any officer meted punishment under this article by an officer exercising general court-martial jurisdiction or a general or flag rank in command shall automatically be considered on non-promotable status for a period of one year from the date of the imposition of the punishment. The imposition by an officer exercising general court-martial jurisdiction or a general or flag rank in command of three years next preceeding the consideration for promotion of an officer shall constitute a ground for deferment from promotion of the officer. Any enlisted person meted punishment under the provisions of this article by an officer in the grade of lieutenant colonel or commander shall automatically be considered on non-promotable status for a period of one year from the date of the imposition of punishment.

"i. Any commanding officer who refuses to act or delays action on a valid complaint against a person under his command, or refuses or delays to impose a disciplinary punishment under this article when warranted by the evidence, or otherwise aids or abets the wrongdoing of a subordinate shall be subject to action under this article by his immediate superior officer or punished as a court-martial may direct."

SEC. 2. All provisions of existing laws, decrees, general orders, or regulations, portions thereof, which are inconsistent or modified accordingly.

SEC. 3. This decree shall take effect upon approval.

Done in the City of Manila, this 11th day of January, in the year of Our Lord, nineteen hundred and eighty-five.

(Sgd.) FERDINAND E. MARCOS  
President of the Philippines

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