

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 8037



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

The 1987 Constitution provides that the Armed Forces of the Philippines shall be composed of a Citizen Armed Force who shall undergo military training and serve as may be provided by law. It shall keep a regular force necessary for the security of the State. In support to this provision, Republic Act No. 7077 or the "AFP Reservist Act of 1991" was enacted.

RA No. 7077 provides for the development, organization, training, administration, maintenance and utilization of the Citizen Armed Forces of the Philippines and for other purposes. The Citizen Armed Force or alternatively called the Reserve Force aims to provide the base for the expansion of the Armed Forces of the Philippines.

The various security threats that plague our military such as the incessant incursion by China on our territory, longest running communist insurgency in Asia, the rising threat of extremism as well as the challenges posed in mitigating the effects of natural and man-made disasters highlights the important role that reservists play in assisting the AFP in fulfilling their mandated duty.

Most reservists are professionals: teachers; doctors, lawyers; nurses; sales agents; and, our fellow civil servants. They are Filipinos who have offered their time, skills, and expertise to the AFP. As such, it is only fitting that the State gives credence to their efforts and sacrifices.

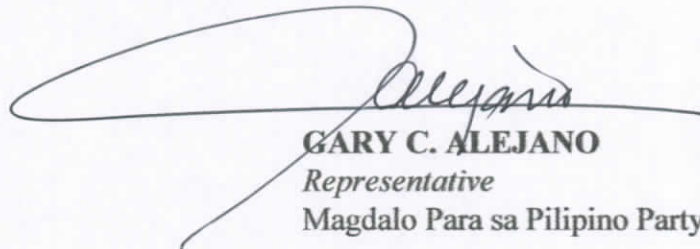
One common risk that our reservists face in fulfilling their duty is with regard their employment. During times of calamities or disasters, our reservists voluntarily signed up to rebuild communities or even enter the battlefield for a certain period of time. After sacrificing their lives and their skills, reservists often face the threat of losing their jobs after providing service in the military.

As such, we must ensure that we offer the proper protection to our reservists and guarantee that at the end of their required military service, they will be reinstated to their civilian careers, and to an equivalent position without loss of seniority rights or decreased pay. Likewise, the period that they served in the military should not be considered a break in their employment for retirement purposes.

This proposed measure protects reservists from discrimination in job hiring, reintegration, promotion, or any benefit of employment. Likewise, this measure also ensures that our reservists receive proper training and compensation. More importantly, this measure guarantees reservists, who suffer any injury or disability during their service, reintegration to the civilian work force so long as they can still perform the essential function of their original employment.

It is hoped that thru this measure, we will be able to professionalize the reserve force and assure them their employment rights as well as ensuring a well-trained, competent, and well-supported reserve force in support of the AFP.

In view of the foregoing, immediate approval of this measure is earnestly sought.



GARY C. ALEJANO
Representative
Magdalo Para sa Pilipino Party-List

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AN ACT

**STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE
CITIZEN ARMED FORCES FOR THE RESERVED FORCE OF THE ARMED
FORCES OF THE PHILIPPINES AND FOR OTHER PURPOSES**

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “Reservist Employment
2 Rights Act.”

3
4 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to:

5
6 a. Strengthen the Citizen Armed Forces or the Reserve Force of the Armed Forces of
7 the Philippines (AFP) and recognize its role in the mission areas of the AFP and in national
8 security;

9 b. Protect the rights of reservists, and prevent and prohibit discrimination on the basis of
10 rendering military service to the State;

11 c. Encourage service in the Reserve Force of the AFP by eliminating or minimizing the
12 disadvantages to civilian careers and employment which can result from rendering military
13 service to the State; and

14 d. Ensure the observance of all employers of the rights of reservists called to perform
15 military service to the State.

16
17 The prime duty of the State is to serve and protect the people. For this reason, the State
18 may call upon the people to defend the State, and in fulfillment thereof, may require its citizens
19 to render military or civil service under conditions provided by law.

20
21 **SEC. 3. Coverage.** – The provisions of this Act shall apply to all employers, whether
22 private or public, including all government agencies and political subdivisions as well as
23 government-owned and –controlled corporations, non-government organizations, and other
24 socioeconomic entities.

25
26 **SEC. 4. Definition of Terms.** – As used in this Act, the following terms shall mean:

27
28 a. Active Duty Training – The compulsory or voluntary trainings for reserve units
29 and/or individual reservists provided by the AFP to update their working knowledge in the
30 current military organization, doctrines, tactics, techniques and procedures or TTPs, in order to
31 maintain a desirable state of readiness, enable to satisfy the active service-in-grade required for
32 promotion to higher grades, and maintain a level of proficiency and competency for those
33 reservists designated as instructors in Reserve Officers’ Training Corps (ROTC) and other
34 reservists training programs;

1 b. Auxiliary Service – the voluntary performance of a service by a reservist for the
2 purpose of helping maintain local peace and order, meeting local insurgency and terror threats
3 for intelligence requirements, assisting in rescue and relief operations during disasters and
4 calamities, health welfare activities and participating in local socioeconomic development
5 projects;

6
7 c. Citizen Soldier or Reservist – members of the Reserve Force of the AFP composed of
8 the following:

- 9
10 i. Graduates of the ROTC basic and advance courses and who were issued orders as
11 enlisted reservists or reserve officers of the AFP;
12 ii. Graduates of authorized basic military training instructions who, as a result thereof,
13 were issued orders as enlisted reservists or reserve officers;
14 iii. Ex-servicemen and retired officers of the AFP who have been incorporated into the
15 Reserve Force of the AFP; and
16 iv. Reservist officers and enlisted reservists including those procured under existing laws
17 and included in the present AFP roster.
18

19 There shall be three (3) categories of citizen soldiers or AFP reservists: the First
20 Category Reserve, the Second Category Reserve, and the Third Category Reserve based
21 on age.
22

23 First Category Reserve – The First Category Reserve shall be composed of able
24 bodied reservist whose ages are between eighteen (18) years and thirty-five (35) years,
25 inclusive.
26

27 Second Category Reserve – The Second Category Reserve shall be composed of
28 able-bodied reservist whose ages are between thirty-six (36) years and fifty-one (51)
29 years, inclusive.
30

31 Third Category Reserve – The Third Category Reserve shall be composed of able-
32 bodied reservist who are above fifty-one (51) years of age.
33

34 Based on the categorization above, the Reserve Force units shall further be
35 classified into the Ready Reserve, the Standby Reserve, and the Retired Reserve based on
36 their operational readiness for immediate deployment/utilization;
37

38 d. Employment – the act of hiring, and continued engagement including the
39 reintegration of an employee called to military service to his or her former position, or if not
40 practicable to a substantially equivalent position, without loss of seniority rights and diminution
41 of pay;
42

43 e. Military Service – any service rendered a citizen soldier or reservist to the State upon
44 orders of the AFP or call to active duty (CAD) to meet active duty training (ADT) requirements,
45 or for any purpose that the AFP leadership may deem necessary in order to augment and support
46 the Regular Force operations in times of war, national emergency or such other times as the
47 national security requires;
48

49 f. Mobilization – the utilization of the Reserve Force of the AFP in times of emergency
50 to meet threats to national security;
51

52 g. Reintegration – the actual resumption of work of an employee after his or her military
53 service to his or her former position, or if not practicable to a substantially equivalent position,
54 without loss of seniority rights and diminution of pay;

h. Reserve Force – those composing of members of the reserve components of the AFP;

i. Ready Reserve – citizen soldiers/reservists belonging mostly to the First Category reserve, who shall be organized, trained and maintained as mobilizable ready reserve subject to being called at any time to augment the regular armed force of the AFP not only in times of war or national emergency but also to meet local emergencies arising from calamities, disasters and threats to peace, order, security and stability in any locality, including the need to provide assistance in relief and rescue work and other civil assistance activities;

j. Standby Reserve – citizen soldiers or reservists belonging mostly to the Second Category Reserve and the Third Category Reserve. The members of the Standby Reserve shall be organized and assigned to specific reserve units and shall be maintained through annual assembly test to update their records and present addresses, among others. The Standby Reserve may be mobilized or ordered to active duty only in times of national emergency or war. The ranks of the members of the Standby Reserve may be upgraded if they voluntarily participate in training or serve with the Ready Reserve Units in their areas or if their Standby Reserve unit undergo retraining. They will however be encouraged to upgrade their military knowledge and skills by taking up nonresident or resident courses which shall be set up for the purpose.

Furthermore, members of the AFP Affiliated Reserve units of various government and private utilities and services considered essential for the preservation of economic stability of the country or particular locality, such as power and electricity, water supply, transportation and communications, among others, regardless of their categorization shall be classified as Ready Reserve.

All citizen soldiers belonging to the First Category Reserve, except those exempted under Republic Act No. 7077, otherwise known as the Citizen Armed Forces of the Philippines Reservist Act, and other pertinent policies, shall be required to serve with the Ready Reserve units and will have assignments and promotions in accordance with existing policies of the AFP until transferred to the Standby Reserve by virtue of their age;

k. Retired Reserve – citizen soldiers who have qualified for retirement through length of service, old age or disability. For this purpose, sixty-five (65) years shall be considered as the retirement age. However, if qualified and fit for duty, a member of the Retired Reserve may be ordered to active duty in times of local or national emergencies if he/she volunteers for active duty and when the Secretary of National Defense determines that there are not enough qualified citizen soldiers with his/her special skills and qualifications in the Ready Reserve or Standby Reserve in his/her particular area of residence.

CHAPTER 2 NON-DISCRIMINATION OF RESERVISTS

SEC. 5. Anti-Reservists Discrimination. –

a. It shall be unlawful for the employer, or those acting in the interest of the employer, whether private or public, including all government agencies and political subdivisions, as well as government-owned or –controlled corporations, non-government organizations, and other socioeconomic entities to:

i. Discriminate against an individual in terms of compensation, terms and conditions, or privileges of employment on account of such individual's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;

ii. Print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting

1 preferences, limitations, specifications, and discrimination based on membership in
2 the Reserve Force of the AFP;

3
4 iii. Require the declaration of application for membership, or status of membership in the
5 Reserve Force of the AFP;

6
7 iv. Decline employment on the basis of membership in the Reserve Force of the AFP;

8
9 v. Deny any employee's or worker's promotion or opportunity for training on the basis
10 of membership, application for membership, performance of military service,
11 application for military service or obligation with the Reserve Force of the AFP;

12
13 vi. Lay off an employee or worker because of membership, application for membership,
14 performance of military service, application for military service or obligation with the
15 Reserve Force of the AFP; or

16
17 vii. Impose early retirement on the basis of such employee's or worker's membership,
18 application for membership, performance of military service, application for military
19 service or obligation with the Reserve Force of the AFP.

20
21 b. It shall be unlawful or a labor contractor or subcontractor, if any, to refuse to refer for
22 employment or otherwise discriminate against any individual because of such person's
23 membership, application for membership, performance of military service, application for
24 military service or obligation with the Reserve Force of the AFP.

25
26 c. It shall be unlawful for any organization to:

27
28 i. Deny membership to any individual because of such person's membership,
29 application for membership, performance of military service, application for military
30 service or obligation with the Reserve Force of the AFP;

31
32 ii. Exclude from its membership any individual because of such person's membership,
33 application for membership, performance of military service, application for military
34 service or obligation with the Reserve Force of the AFP; or

35
36 iii. Cause or attempt to cause an employer to discriminate against an individual in
37 violation of this Act.

38
39 d. It shall be unlawful for a publisher to print or publish any notice of advertisement
40 relating to employment suggesting preferences, limitations, specifications, and discrimination
41 based on a person's membership, application for membership, performance of military service,
42 application for military service or obligation with the Reserve Force of the AFP.

43 44 CHAPTER 3 45 EMPLOYMENT RIGHTS 46

47 **SEC. 6. *Employment Rights of Citizen Soldiers/ Reservist.*** – The following are the
48 rights of reservists who perform military service in the Reserve Force of the AFP:

49
50 a. Reservists who perform military service are entitled to their original position, or when
51 not practicable to a substantially equivalent position, without loss of seniority rights and
52 diminution of their pay;

53
54 b. Military service shall not be considered a break in the employment for retirement
55 purposes or for granting benefits provided for under the Labor Code and other special laws;

1 c. Reservists cannot be required to use earned or entitled vacation or service incentive
2 leaves for leave of absence in connection with the performance of military service in the Reserve
3 Force; and
4

5 d. Reservist who suffer any temporary or permanent disability due to military service
6 shall not be denied reintegration if such employee can still perform the essential functions of
7 their original employment, whether with or without reasonable accommodations.
8

9 **SEC. 7. Hiring of Substitute Employee.** – An employer whose reservist employee is
10 called to military service may hire another employee as substitute during the period of the
11 military service of the reservist employee.
12

13 The employment of the substitute employee shall be deemed terminated upon the
14 reintegration of the reservist employee. The employer, or those acting in the interest of the
15 employer may, however, consider the substitute employee for another position, if practicable.
16

17 **SEC. 8. Reintegration Duty of an Employer.** – It shall be the duty of the employer, or
18 those acting in the interest of the employer, to reintegrate reservists returning from military
19 service to their former position, or when not practicable to a substantially equivalent position,
20 without loss of seniority rights and diminution of their pay.
21

22 **SEC. 9. Conditions for Reintegration of Reservists.** – Reservists shall be entitled to
23 reintegration as provided in Section 8 of this Act, subject to the following conditions:
24

25 a. The reservist has rendered or performed military service as a member of the Reserve
26 Force of the AFP;
27

28 b. The employer, or those acting in the interest of the employer, has been given a written
29 notice by the AFP or the reservist, which if practicable shall indicate the duration of military
30 service, at least thirty (30) days prior to departing for military service unless precluded by
31 military necessity, or under all of the relevant circumstances, the timely provision of notice is
32 otherwise impossible or unreasonable;
33

34 c. The employer, or those acting in the interest of the employer, shall immediately
35 reintegrate the reservist after he or she is officially discharged from military service in
36 accordance with the notice issued by the AFP; and
37

38 d. The employer, or those acting in the interest of the employer, shall provide its
39 reservist employee the prevailing salary or wage at the time of reintegration of the reservist.
40

41 The AFP shall issue and provide the pertinent notices and documents to reservists and
42 their employers, and those acting in the interest of the employers, in a timely manner to facilitate
43 the reintegration of the reservists to their employment.
44

45 **SEC. 10. Period to Notify of Intent to Return.** – Reservists are hereby required to notify
46 their employers, or those acting in the interest of the employer, of their intent to return to work
47 subject to the following circumstances and conditions:
48

49 a. In the case of reservists called to military service for a definite period when indicated
50 in the call for active duty training or such other notice issued by the AFP, the employer, or those
51 acting in the interest of the employer, shall be deemed notified of the intent to return when
52 furnished a copy of the pertinent notice from the AFP prior to the absence of the reservist for
53 military service;

1 b. In the case of reservists called to military service for an indefinite period when not
2 indicated in the call for active duty training or such other notices issued by the AFP, the
3 employer, or those acting in the interest of the employer, shall be deemed notified of the intent to
4 return when furnished a copy of the pertinent notice from the AFP indicating the impending
5 discharge of reservists at least fifteen (15) days prior to the end of the military service;
6

7 *Provided*, That the reservists shall not be deemed ineligible when circumstances do not
8 permit the timely prior notification of absence due to military service and/or intent to return of a
9 reservist in compliance with this provision in accordance with Sections 9 (b) and 9 (d) of this
10 Act.
11

12 *Provided, further*, That reservists who suffer from illness or injury incurred in, or
13 aggravated during, the performance of military service shall be allowed to indicate their desire to
14 return to their former position within a reasonable time as prescribed by a military doctor.
15

16 *Provided, finally*, That the AFP shall ensure that its policies and administrative processes,
17 whenever practicable, allow for at least fifteen (15) days prior notification of employers, or those
18 acting in their interest, of the absence of reservists for military service and their capacity and
19 intent to return to their employment.
20

21 **SEC. 11. Compensation for Non-Reintegration of Reservists.** – In cases of authorized
22 causes or circumstances, subject to the determination and approval of Department of Labor and
23 Employment (DOLE), where reintegration is impossible or unreasonable the reservist shall be
24 entitled to at least three (3) months' worth of his or her basic salary or to a separation pay
25 equivalent to his or her one-month basic salary per year of service, whichever is higher.
26

27 **SEC. 12. Compensation of Reservists for Military Service.** – In order to enhance the
28 general welfare, commitment to service and professionalism of the members of the Reserve
29 Force of the AFP, the reservist rendering military service shall be entitled to the base pay
30 commensurate to their rank consistent with their counterpart in the regular force.
31

32 The mother agency of the reservist shall promptly pay and remit the reservist employees'
33 premium contributions, based on his or her salary, during their absence due to military service,
34 whether to the Government Service Insurance System (GSIS), the Pagtutulungan sa
35 Kinabukasan: Ikaw, Bangko, Industriya, at Gobyerno (PAG-IBIG), Philippine Health Insurance
36 Company (PhilHealth), and all pertinent contributions related to his or her employment, and shall
37 not reflect any gap in contributions in the records.
38

39 Reservists shall have the option to pay their Social Security System (SSS) contributions
40 as voluntary paying SSS member to avoid any gap in their contribution records and afford their
41 full entitlement to SSS benefits in accordance with existing guidelines.
42

43 The AFP shall establish the necessary administrative process to assist the reservists in the
44 timely remittance of pertinent contributions, whether mandatory or voluntary.
45

46 **SEC. 13. Multi-stakeholder Engagements and Advocacies.** – The Department of
47 National Defense (DND) and AFP shall strengthen coordination and cooperation among
48 stakeholders through a sustained comprehensive advocacy campaign for the purpose of ensuring
49 that the employment rights of reservists are understood and protected by all concerned.
50

51 For this purpose, the Department of Budget and Management (DBM) in consultation
52 with the DND and the AFP shall create the necessary plantilla or non-tenured positions. The
53 necessary funds for the implementation of this provision shall be included in the budget of the
54 DND and AFP in the General Appropriations Act.

1 **SEC. 14. *Tax Benefits and Incentives.*** – The Department of Finance (DOF), in
2 coordination with the DND, AFP, and other appropriate government agencies, shall develop the
3 appropriate rules and regulations on the provision of tax benefits and incentives based on
4 justified costs and expenses by employers associated with organizational adjustments borne out
5 of the absence of reservists in an organization in compliance with this Act, Republic Act No.
6 7077, and other appropriate laws, rules, and regulations.

7 **SEC. 15. *Administrative Fines and Penalties.*** – Violation of any of the provision of this
8 Act shall be punished with a fine of not less than Fifty Thousand pesos (PHP50,000.00) but not
9 more than One Million pesos (PHP1,000,000.00), or imprisonment of not less than three (3)
10 months but not more than two (2) years, or both, at the discretion of the court. If the offense is
11 committed by a corporation, trust, firm, partnership or association or other entity, the penalty
12 shall be imposed upon the responsible officer or officers of such corporation, trust, firm,
13 partnership or association or entity
14

15 **SEC. 16. *Military Duty Leave.*** – Every reservist shall be entitled to a leave of seven (7)
16 days with pay per year for the purposes of military training or military activities. This shall be on
17 top of applicable leaves entitled a reservist from his or her employer.
18

19 **CHAPTER 4** 20 **FINAL PROVISIONS** 21

22 **SEC. 17. *Appropriations.*** – The amount necessary for the immediate and effective
23 implementation of this Act shall be charged against any available funds of the DND and the
24 AFP. Thereafter, such sums as may be necessary for the implementation of this Act shall be
25 included in the annual appropriations of the Armed Forces of the Philippines.
26

27 **SEC. 18. *Implementing Rules and Regulations.*** – Within sixty (60) days from the
28 effectivity of this Act, the DOLE in coordination with the DND, the AFP, the Civil Service
29 Commission (CSC) and appropriate government agencies shall promulgate the rules and
30 regulations for the effective implementation of this Act.
31

32 **SEC. 19. *Separability Clause.*** – Should any provision herein be declared
33 unconstitutional, the same shall not affect the validity of the other provisions of this Act.
34

35 **SEC. 20. *Repealing Clause.*** – All laws, decrees, orders, rules, and regulations or other
36 issuances or parts inconsistent with the provisions of this Act are hereby repealed, amended, or
37 modified accordingly.
38

39 **SEC. 21. *Effectivity Clause.*** – This Act shall take effect in fifteen (15) days after
40 publication in the Official Gazette or in one (1) newspaper of general circulation in the
41 Philippines.

Approved,