

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 8114



Introduced by
REP. JOHNNY T. PIMENTEL

The realization of programs require a certain length of time before they are fully implemented. The persons in charge thus need to hold the appropriate length of service to adequately plan, test and execute programs. This is the case of crucial government positions of the Armed Forces of the Philippines Chief-of-Staff, Chairman of the Joint Chiefs, and other Armed Forces Officers.

The tenure for such positions are limited by the Constitution to only three years and is further shortened by the compulsory retirement age which requires AFP personnel to retire at the age 56.

It must be noted that a soldier still stands at the prime of his life at such age and is still very much capable of rendering his expertise in the interest of the nation. Furthermore, such situation also delimits the President's choices to fill in vacancies in the Armed Forces with senior officers whose dates of retirements are forthcoming.

With the position being critical to the country's national interest, public policy requires that the person who should occupy the post must be in the one's best qualified capacity. A term of service must serve to allow the Chief of State to take up leadership in the Armed Forces unhampered by imminent retirement and change of officers. This Measure creates a venue for the implementation of long-term and continuous program of the AFP.

The approval of this Bill is earnestly sought.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by 'T. PIMENTEL'. The signature is enclosed within a hand-drawn oval border.

JOHNNY T. PIMENTEL

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**AN ACT
STRENGTHENING PROFESSIONALISM AND CONTINUITY OF POLICIES
AND MODERNIZATION INITIATIVES OF THE ARMED FORCES OF THE
PHILIPPINES BY PRESCRIBING FIXED TERMS FOR THE CHIEF-OF-
STAFF/ CHAIRMAN OF THE JOINT CHIEFS AND OTHER KEY OFFICERS
THEREOF, INCREASING THE MANDATORY AGE OF RETIREMENT OF
GENERAL/FLAG OFFICERS, PROVIDING FOR A MORE EFFECTIVE
ATTRITION SYSTEM, REPEALING SECTIONS 5, 10, 11 AND 12 OF
PRESIDENTIAL DECREE NO. 1638, AS AMENDED, AND SECTIONS 3
AND 4 OF REPUBLIC ACT 8186, AS AMENDED, AMENDING SECTION 1
OF REPUBLIC ACT 9188 AND FOR OTHER PURPOSES**

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

Title I DECLARATION OF POLICY

SECTION 1. *Declaration of Policy.* — It is hereby declared the policy of the State that in the pursuit of modernization of the Armed Forces of the Philippines (AFP) to:

- (a) Enhance professionalization in the organization by strengthening the merit system and allow the new leadership a longer period to implement reforms and institutionalize good policies that will redound to the improvement of the AFP;
- (b) Promote the most qualified officers of general rank; and
- (c) Obviate revolving door accommodation promotions in order to successfully create a new culture of excellence in leadership and accountability in the AFP.

Towards this end, the State shall:

- (a) Fix the tour of duty of the Chief of Staff/Chairman of the Joint Chiefs (CJC) and other officers holding key positions;
- (b) Adjust the mandatory retirement age of General/Flag Officers of the AFP; and

- (c) Ensure implementation of merit-based promotion and attrition system that will assure the Armed Forces of continuous pool of qualified and effective leaders.

TITLE II TERMS OF OFFICE

SECTION 2. *Tour of Duty of Key Officers* – The members of the Joint Chiefs and the Joint Force Commanders, upon appointment, shall have a tour of duty of three (3) years. Provided, That the Joint Chiefs shall be composed of the following:

- (a) AFP Chief of Staff/ Chairman of the Joint Chiefs (CJC);
- (b) Vice Chairman of the Joint Chiefs;
- (c) Chief of the Joint Staff;
- (d) Chief of the Army;
- (e) Chief of the Air Force; and
- (f) Chief of the Navy

Unless otherwise specified by the President, the tour of duty of the aforementioned officers shall commence on the date the appointment is signed, and shall be for three (3) consecutive years unless sooner terminated by the President.

The fixed tour of duty provided herein shall apply to General/Flag Officers appointed by the President after the effectivity of this Act.

The members of the Joint Chiefs shall be selected by the President from among the officers in the grades of Major General/ Rear Admiral and Lieutenant General/Vice Admiral who, in his/her judgment, is best and qualified for those positions, regardless if the officer is occupying a position with a fixed tour of duty or not.

Section 4 of Republic Act No. 8186 entitled "An Act Prescribing Officer Grade Distribution in the Active Force of the Armed Forces of the Philippines and Limiting the Tenure of Officers in the Grade of Colonel/Captain (PN) And General/Flag Officers in the AFP" (R.A. No. 8186) is hereby repealed.

SECTION 3. *Tour of Duty of the Superintendent of the Philippine Military Academy (PMA).* – A general officer of proven competence and academic excellence shall be appointed as Superintendent, PMA and shall be exempt from the application of the maximum tenure-in-grade defined under this Act. He/she shall be given a tour of duty of four (4) years, unless sooner terminated by higher authority, and shall be compulsorily retired after completion of his/her tour of duty or upon relief from office.

SECTION 4. *Prohibition on the Extension of Term.* – Except as provided for under Section 5 of this Act in accordance with the Constitution, no extension of tour of duty of the Joint Chiefs, PMA Superintendent, and Joint Force Commanders shall be allowed.

SECTION 5. *Tour of Duty of the Chief of Staff/ Chairman of the Joint Chiefs.* – The tour of duty of the Chief of Staff /CJC of the AFP shall not exceed three years. However, in times of war or other national emergency declared by the Congress, the President may extend such tour of duty.

TITLE III RETIREMENT

SECTION. 6. *Compulsory Retirement for Military Personnel.* - Section 5 (a) of Presidential Decree No. 1638, entitled "Establishing a New System of Retirement and Separation for Military Personnel of the Armed Forces of the Philippines and for Other Purposes", as amended by Presidential Decree No.1650, is hereby repealed and replaced with a new provision which shall read as follows:

"Sec 5.(a). An officer or enlisted personnel shall be compulsorily retired upon accumulation of at least 30 years of active service or upon reaching the age of 56 years old, whichever comes **later**. Provided, That officers in the grades O7-O9 shall be compulsorily retired upon attaining the maximum tenure-in-grade as defined in this Act, regardless of age and without prejudice to be promoted to the next higher rank; Provided further, that an officer appointed to the grade O-10 shall be compulsorily retired upon completion of three (3) years tour of duty or sixty-five (65) years of age whichever comes earlier; and Provided finally, that such Officer who was commissioned under Presidential Decree Nr 1908, who has attained fifty-six (56) years of age with at least 16 years of active service shall be allowed to complete twenty (20) years of active service for purposes of compulsory retirement."

SECTION 7. *Optional Retirement.* - Upon accumulation of at least twenty years of satisfactory Active Service, an officer or enlisted personnel may, at his/her own request, be retired from Active Service, subject to the approval of appropriate authority as provided for in the Implementing Rules and Regulations of this Act.

SECTION 8. *Retirement Grade.* - In case of optional retirement, a general / flag officer shall be retired in his/her present grade only after serving at least two (2) years in that grade prior to the date of said retirement, otherwise, he/she will be retired in his/her previous grade.

TITLE IV

ATTRITION SYSTEM FOR THE PERSONNEL OF THE AFP

SECTION 9. *Definition of Terms.* - As used in this Title, the following terms shall mean:

- (a) Active Duty - the service or duty in the regular force AFP.
- (b) Enlisted Personnel - refer to members of the AFP with the rank of Private, up to First Chief Master Sergeant or their equivalent in the other services, usually referred to as Non-Commissioned Officers upon reaching the rank of Corporal and above.
- (c) Forced Attrition - is a mode of attrition wherein an officer or enlisted personnel, who, after having been considered for promotion to the next higher grade; or an officer who has been considered for retention pursuant to law, but failed to qualify on account of his/her own fault, failure or negligence or lack of individual merit, is separated from the active service.
- (d) Grade - the military rank of a commissioned officer and enlisted personnel.

Commissioned officers, from the lowest to highest, are:

- (1) Second Lieutenant/Ensign (PN);
- (2) First Lieutenant/ Lieutenant Junior Grade (PN);
- (3) Captain/Lieutenant (PN);
- (4) Major/Lieutenant Commander (PN);
- (5) Lieutenant Colonel/Commander (PN);
- (6) Colonel/Captain (PN);
- (7) Brigadier General/Commodore (PN);
- (8) Major General/Rear Admiral (PN);
- (9) Lieutenant General/Vice Admiral (PN); and
- (10) General/Admiral (PN)

For enlisted personnel, from lowest to highest, are:

- (1) Private;
- (2) Private First Class;
- (3) Corporal;
- (4) Sergeant;
- (5) Staff Sergeant;
- (6) Technical Sergeant;
- (7) Master Sergeant;
- (8) Senior Master Sergeant;
- (9) Chief Master Sergeant; and
- (10) First Chief Master Sergeant

or their equivalent in the Philippine Navy and Philippine Air Force.

- (b) Officers – refer to commissioned personnel in the active service of the Armed Forces of the Philippines.
- (c) Primary Zone - the primary zone shall be composed of officers who are on promotable status in the uppermost portion of the promotion list equivalent to the number of declared vacancies.
- (d) Service member - any active duty officer or enlisted personnel of the AFP.
- (e) Tenure-In-Grade - the allowable/maximum year given to an Officer/Enlisted Personnel in a certain grade/rank.

SECTION 10. *Forced Attrition.* – Sections 10, 11 and 12 of P.D. No. 1638 are hereby repealed and replaced by the following new provisions which shall read as follows:

"Sec. 10. *Forced Attrition of Officers.* – Officers who were considered but failed to qualify for promotion to the next higher grade on account of their own fault, failure or negligence or who lack the individual merits required for promotion shall be subsequently separated from the active service. Officers with contractual service obligations who were recommended for separation on account of their own fault, failure or negligence, shall be required to refund the government the amount equivalent to the cost of training proportionate to the remaining period to be served as stipulated in the training contract. The following are the instances of forced attrition of officers:

(a) *Attrition by Non-Promotion.* -

(1) Deferment of promotion. - An officer in the grade of Second Lieutenant/Ensign (PN) who is deferred once shall be separated in the permanent grade he/she holds on the first day of the third month after the President shall have approved the promotion of officers recommended by the selection board which recommended the deferment of such an officer for the first time.

(2) Twice Deferment of Promotion. - An officer in the grade of First Lieutenant/Lieutenant Junior Grade (PN) to Lieutenant

Colonel/Commander (PN) who is deferred twice for promotion to the next higher grade shall be separated in the permanent grade he/she holds on the first day of the third month after the President shall have approved the promotion of officers recommended by the Selection Board which recommended the deferment of such officer for the second time. This subsection applies only to officers in the primary zone of consideration because they were considered or deliberated upon by the selection board but failed to qualify for promotion to the next higher grade.

(3) Maximum Tenure-in-Grade for Officers. -

(i) *General Officers.* - The maximum tenure of officers in the grades of General/Flag Officer in the AFP are hereby prescribed as follows:

GRADE MAXIMUM	TENURE-IN-GRADE
General/Admiral (0-10)	Three (3) years
Lieutenant General/ Vice Admiral (0-9)	Three (3) years
Major General/ Rear Admiral (0-8)	Three (3) years
Brigadier General/ Commodore (0-7)	Three (3) years

Unless earlier separated, retired or promoted to the next higher grade or occupying a position calling for the rank of higher grade in the AFP Table of Organization, General/Flag Officers shall be compulsorily retired upon either the attainment of the maximum tenure-in-grade herein prescribed or the fixed tour of duty prescribed in Section 2 of this Act, whichever comes earlier. Any General/Flag Officer who is relieved from post and is not designated to or occupying any position in the AFP Table of Organization as funded in the General Appropriations Act shall be deemed retired from the military service effective upon relief.

(ii) *Officers.* - The maximum tenure of officers in the grades of Captain, Major, Lieutenant Colonel and Colonel or their equivalent in the other services in the AFP are hereby prescribed as follows:

GRADE	MAXIMUM TENURE-IN-GRADE
Captain / Lieutenant (PN) (O-3)	Six (6) years

Major / Lieutenant Commander (PN) (O-4)	Six (6) years
Lieutenant Colonel / Commander (PN) (O-5)	Seven (7) years
Colonel/ Captain (PN) (O-6)	Nine (9) years

(b) *Low-Potentiality.* – An officer referred to and found by the AFP Efficiency and Separation Board not fit for retention, lacking leadership skills, of doubtful integrity, or fails to demonstrate satisfactory performance may be separated from the military service subject to the approval of the President.

"Section 11. *Forced Attrition of Enlisted Personnel.* –

(a) *Failure of Promotion.* – An Enlisted Personnel who fails to qualify for promotion to the next higher rank shall be recommended for evaluation by the appropriate Promotion Board, subject to the provisions of the implementing rules and regulations.

(b) *Maximum Tenure-in-Grade for Enlisted Personnel.* – An Enlisted Personnel shall be separated in accordance with the provisions of existing laws for failure to be promoted after having attained the maximum allowable Active Cumulative Service for the present grade except if occupying a position calling for a higher grade in the AFP Table of Organization:

GRADE	MAXIMUM TENURE-IN-GRADE
E-10	Three (3) years
E-9	Three (3) years
E-8	Three (3) years
E-7	Three (3) years
E-6	Five (5) years
E-5	Five (5) years
E-4	Four (4) years
E-3	Four (4) years
E-2	Four (4) years
E-1	Four (4) years

(c) *Low Potentiality.* – An enlisted service member who is referred to and found by the Enlisted Personnel Reenlistment Board not fit for retention, complacent, lacking leadership skills, of doubtful integrity, or fails to demonstrate outstanding performance may be separated from the military service.

SECTION 11. *Renumbering.* – The succeeding sections of P.D. No. 1638, as amended, are hereby renumbered accordingly.

SECTION 12. *Separation or Retirement from the AFP.* — Any service member of the AFP shall be:

- (a) separated, if one has rendered less than twenty (20) years of service, or
- (b) retired, if one has rendered at least twenty (20) years of service unless the concerned service member is disqualified by law to receive such benefits.

TITLE V GENERAL PROVISIONS

SECTION 13. Competitive Categories for Promotion. – Under regulations prescribed by the Secretary of National Defense, the AFP shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

SECTION 14. Officer Grade Distribution. Section 1 of Republic Act 9188 is hereby amended to read as follows:

“SECTION. 1. Officer Grade Distribution. – The Secretary of National Defense shall prescribe the authorized number of officers in the active force in each grade and in each major, technical or administrative service and shall implement the gradual decrease in the number of officers in each officer rank as part of, and in line with, the Modernization Program of the Armed Forces: Provided, That effective one (1) year after the approval of this Act, such number shall not exceed the number in each grade authorized in the Table of Organization of units of the active force distributed as follows: One per centum (1%) in the General/Flag Officer grade; six per centum (6%) in the grade of Colonel/Captain (PN); twelve per centum (12%) in the grade of Lieutenant Colonel/Commander (PN); eighteen per centum (18%) in the grade of Major/Lieutenant Commander (PN); twenty per centum (20%) in the grade of Captain/Lieutenant (PN) and forty-three per centum (43%) in the grades of First Lieutenant/Lieutenant Junior Grade (PN) and Second Lieutenant/Ensign (PN): Provided, further, That such distribution is based on the total officer strength authorized for the AFP: Provided, furthermore, That the Table of Organization of units of the active force shall be adjusted in accordance with their respective missions and officer requirements, and shall be gradually decreased pursuant to this section and such rules and regulations as the Secretary of National Defense shall prescribe, subject to the condition that the schedule of percentage for each grade as herein prescribed shall not be exceeded: Provided, furthermore, That in the determination of the officer to enlisted personnel ratio, the mission requirement, capabilities, scope of responsibility, technical nature of the position and task, and equipment inventory of units shall be taken into consideration: Provided, furthermore, That considering the highly technical nature of the Air Force and the Navy, they shall be allocated a higher officer to enlisted personnel ratio which shall not exceed fifteen percent (15%) of the officer to enlisted personnel ratio allocated in the Philippine Army: Provided, furthermore, That as far as practicable, officers in the technical or administrative services such as, but not limited to, surgeon general, chief dental service and chief nurse may be eligible for promotion to general/flag officer grade: Provided, furthermore, That the quota limitation provided herein shall not apply in the promotion to general/flag rank of reserve officers in the inactive service: Provided, finally, That if the actual number in a grade is less than the number prescribed, the difference may be applied as an increase to the number prescribed in a lower grade.”

SECTION 14. Officer Lineal List. -There shall be only one seniority lineal list for the officers of the Major Services and each of the Technical Services.

TITLE VI MISCELLANEOUS PROVISIONS

SECTION 15. Appropriations. – The amount necessary for the effective implementation of this Act shall be charged to the appropriations of the Department of National Defense under the current General Appropriations Act. Thereafter, such sum as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SECTION 16. *Construction and Interpretation.* - To protect state policy and public interest as stated in Section 1 of this Act, this act shall be given a liberal construction in favor of its provisions so as to further the accomplishment of its declared policies in Section 1.

SECTION 17. *Implementing Rules and Regulations.* - The Department of National Defense shall formulate the rules and regulations necessary to implement the provisions of this Act within ninety (90) days from its effectivity. Provided, That the IRR shall provide for a systematic transition to the new retirement and separation system provided for under this Act.

SECTION 18. *Separability Clause.* - If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions thereof.

SECTION 19. *Repealing Clause.* - Sections 3 and 4 of Republic Act 8186 as amended, Sections 5, 10 , 11 and 12 of the Presidential Decree No 1638, as amended are hereby repealed. All other laws, executive orders or issuances or any part thereof, which are inconsistent herewith, are hereby repealed or amended accordingly.

SECTION 20. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette and in at least two (2) newspapers of general circulation.

Approved,