

[PRESIDENTIAL DECREE NO. 1638, September 10, 1979]

ESTABLISHING A NEW SYSTEM OF RETIREMENT AND SEPARATION FOR MILITARY PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES AND FOR OTHER PURPOSES.

WHEREAS, there is an imperative need to improve and consolidate the various laws pertaining to the retirement of members of the Armed Forces of the Philippines.

WHEREAS, Republic Act Numbered Three Hundred and Forty, as amended, causes the premature compulsory retirement of those who are purposely educated and trained by the government to be professional military personnel;

WHEREAS, the early retirement of military personnel denies the Armed Forces of the Philippines of the full economical utilization of the services of well-experienced, highly trained, and mature military executives;

WHEREAS, the present retirement system does not afford to all officers equal opportunity for promotion to higher rank and position;

WHEREAS, it is for the good of the service to retain for optimum utilization of their services all military personnel with proven leadership and professional competence;

WHEREAS, world history attests to the fact that many political, social, economic and military leaders are men mature in experience and age;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree the following as part of the law of the land:

TITLE I - SHORT TITLE

SECTION 1. This Decree shall be known as the AFP Military Personnel Retirement and Separation Decree of 1979.

TITLE II -APPLICABILITY

SECTION 2. This Decree shall apply to all military personnel in the service of the Armed Forces of the Philippines.

TITLE III — RETIREMENT

SECTION 3. For the purpose of this Decree active service of a military person shall mean active service rendered by him as a commissioned officer, enlisted man, cadet, probationary officer, trainee or draftee in the Armed Forces of the Philippines and service rendered by him as a civilian official or employee in the Philippine Government prior to the date of his separation or retirement from the Armed Forces of the Philippines, for which military and/or civilian service he shall have received pay from the Philippine Government and/or such others as may hereafter be prescribed by law as active service; *Provided*, That for purposes of retirement, he shall have rendered at least ten (10) years of active service as an officer or enlisted man in the Armed Forces of the Philippines; and *Provided further*, That no period of such civilian government service longer than his active military service shall be

credited for purposes of retirement. Service rendered as a cadet, probationary officer, trainee or draftee in the Armed Forces of the Philippines may be credited for retirement purposes at the option of the officer or enlisted man concerned, subject to such rules and regulations as the Minister of National Defense shall prescribe.

SECTION 4. Upon accumulation of at least twenty (20) years of satisfactory active service, an officer or enlisted man may, at his own request and with the approval of the President, be retired from the active military service.

SECTION 5.a. Upon attaining sixty (60) years of age with at least fifteen (15) years of active service, or upon accumulation of thirty (30) years of satisfactory active service, whichever is earlier, a military person shall be compulsorily retired unless his continued service is, in the opinion of the President, required for the good of the service: *Provided*, That the compulsory retirement of an officer serving in a statutory position shall be deferred until completion of the prescribed tour of duty.

b. Notwithstanding the provisions of Secs. 3 & 5.a. military personnel in the active service, who otherwise will retire compulsory under Section I (b) of Republic Act Numbered Three Hundred and Forty, as amended, during the first, second, third and fourth calendar year of the effectivity of this Decree, shall be retired compulsorily under this Decree on the dates they shall complete an additional period of service of one, two, three and four years, respectively.

SECTION 6. An officer or enlisted man with at least twenty (20) years of accumulated satisfactory service who dies in line of duty, shall be considered retired for survivorship benefits under this Decree.

SECTION 7. An officer or enlisted man who, having accumulated at least twenty (20) years of active service, incurs total permanent physical disability in line of duty shall be compulsorily retired.

SECTION 8. An officer or enlisted man who, having accumulated at least twenty (20) years of active service, incurs physical disability in line of duty other than total permanent, may, at his option, be retired.

SECTION 9. Military personnel covered under the provisions of Title III shall be retired in the grade next higher than the permanent grade last held except officers in the permanent grade of Colonel/Captain (PN) or higher.

TITLE IV — SEPARATION

SECTION 10. Effective six (6) years after the approval of this Decree, officers in the permanent grades of Captain, Major and Lieutenant Colonel, or their equivalent, shall be separated in accordance with the provisions of existing laws upon completing five (5), six (6) and seven (7) years of active commissioned service-in-grade, respectively, or upon attaining thirty-three (33), thirty-nine (39) and forty-six (46) years of age, respectively, whichever is later: *Provided*, That the President may lengthen such active service-in-grade when necessary to maintain the desirable officer rank structure and/or enhance a progressive professional development of the officer corps: *Provided, further*, That an officer with at least twenty (20) years of active service shall be retired in the grade next higher than the permanent grade he holds.

SECTION 11. An officer referred to and found by the AFP Efficiency and Separation Board not fit for retention in the service because of substandard performance, low potentiality, doubtful integrity and/or acts inconsistent with the best interest of the service shall be separated in the permanent grade he holds subject to the approval of the President.

SECTION 12. An officer in the grade of Second Lieutenant/Ensign (PN) who is deferred once, or an officer in the grade above that of Second Lieutenant/Ensign (PN) but below that of Colonel/Captain (PN) who is deferred twice for promotion to the same next higher grade shall be separated in the permanent grade he 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 or second time, as the case may be.

SECTION 13. An officer or enlisted man with less than twenty years of active service who dies in line of duty or on account of any wound, injury or illness contracted in line of duty shall be considered separated from the service in the next higher grade for survivorship benefits under this Decree.

SECTION 14. An officer or enlisted man with less than twenty years of active service who incurs in line of duty total in permanent physical disability shall be separated from the service in the next higher grade than the permanent grade he holds except as *provided* Section 9.

SECTION 15. An officer or enlisted man who incurs in line of duty physical disability other than total permanent before completion twenty years of active service may, at his option, be separated from the service in the grade next higher than the permanent grade he holds except as *provided* in Section 9.

SECTION 16. An officer may resign his commission and shall be separated from the service upon acceptance by the President of such resignation.

TITLE V — RETIREMENT AND SEPARATION BENEFITS

SECTION 17. When an officer or enlisted man is retired from the Armed Forces of the Philippines under the provisions of this Decree, he shall, at his option, receive a gratuity equivalent to one (1) month of base and longevity pay of the grade next higher than the permanent grade last held for every year of service payable in one (1) lump sum or a monthly retirement pay equivalent to two and one-half percent (2 1/2%) for each year of active service rendered, but not exceeding eighty-five percent (85%) of the monthly base and longevity pay of the grade next higher than the permanent grade last held: *Provided*, That an officer retired under Section 11 or 12 shall be entitled to benefits computed on the basis of the base and longevity pay of the permanent grade last held: *Provided, further*, That such retirement pay shall be subject to adjustment on the prevailing scale of base pay of military personnel in the active service: *Provided, furthermore*, That when he retires, he shall be entitled, at his option, to receive in advance and in lump sum his annual retirement pay for the first three (3) years and thereafter receive his annual retirement pay payable in equal monthly installment as they accrue: *Provided, finally*, That if he dies within the three-year period following his retirement and is survived by beneficiaries as defined in this Decree, the latter shall only receive the derivative benefits thereunder starting the first month after the aforesaid three-year period. Nothing in this Section shall be construed as authorizing adjustment of pay, or payment of any differential in retirement pay to officers and enlisted men who are already retired