

**[ REPUBLIC ACT NO. 516, June 14, 1950 ]**

**AN ACT TO AMEND OR REPEAL CERTAIN SECTIONS OF  
COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND EIGHT,  
OTHERWISE KNOWN AS THE ARTICLES OF WAR, AS AMENDED  
BY REPUBLIC ACT NUMBERED TWO HUNDRED AND FORTY-TWO.**

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

SECTION 3. Article one of Commonwealth Act Numbered Four hundred and eight is hereby amended to read as follows:

"ARTICLE 1. *Definitions.*-The following words when used in these articles shall be construed in the sense indicated in this article, unless the context shows that a different sense is intended, namely:

"(a) The word 'officer' shall be construed to refer to a commissioned officer, including a commissioned member of the nurse corps;

"(b) The word 'soldier' shall be construed as including ncommissioned officer, a private, or any other enlisted man;

(c) The word 'company' shall be understood as including a troop, battery or commissioned vessels;

(d) The word 'battalion' shall be understood as including squadron, air or naval."

SEC. 2. Article four of the same Act as amended by Republic Act Numbered Two hundred and forty-two, is hereby further amended to read as follows:

"ART. 4. *Who may serve on courts-martial.*-All officers in active duty in the Armed Forces of the Philippines or in the Philippine Constabulary shall be competent to serve on courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

"Enlisted persons in the active military service of the Armed Forces of the Philippines or of the Philippine Constabulary shall be competent to serve on general and special courts-martial for the trial of enlisted persons or trainees when requested in writing by the accused at any time prior to the convening of the court: *Provided*, That the competency of enlisted men to serve shall be subject to the conditions prescribed in this and other articles, and in no case shall the number of enlisted men detailed exceed one-third of the total membership of the court.

"When appointing courts-martial, the appointing authority shall detail as members thereof those officers of the command and, when eligible and available, those enlisted persons of the command who, in his opinion, are best qualified for the duty by reason of age, training, experience, and

judicial temperament; and officers and enlisted persons having less than two years' service shall not, if it can be avoided without manifest injury to the service, be appointed as members of courts-martial in excess of the minority membership thereof. No person shall sit as member of a general or special court-martial when he is the accuser or a witness for the prosecution."

SEC. 3. Articles five and six of the same Act are hereby amended by deleting from each of said articles the word "officers" and substituting therefor the word "members."

SEC. 4. Article eight of the same Act as amended by Republic Act Numbered Two hundred and forty-two, is hereby further amended to read as follows:

"ART. 8. *General courts-martial.*-The President of the Philippines, the Chief of Staff of the Armed Forces of the Philippines, the Chief of Constabulary and, when empowered by the President, the commanding officer of a major command or task force, the commanding officer of a division, the commanding officer of a military area, the superintendent of the Military Academy, the commanding officer of a separate brigade or body of troops may appoint general courts-martial; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority.

"The authority appointing a general court-martial shall detail as one of the members thereto a member of the bar, hereafter called law member, who shall be an officer of the Judge Advocate General's Service or an officer of some other branch of the service who is a member of the bar and certified by the Judge Advocate General to be qualified for such detail. No general court-martial shall receive evidence or vote upon its findings or sentence in the absence of the law member regularly detailed. The law member, in addition to his duties as a member, shall perform such other duties as the President may by regulations prescribe."

SEC. 5. Article nine of the same Act is hereby amended to read as follows:

"ART. 9. *Special courts-martial.*-The commanding officer of a major command, task force, military area, or division and, when empowered by the President, the commanding officer of a garrison, fort, camp, brigade, regiment, detached battalion or squadron, or other detached command or place, zone or commissioned vessel where troops are on duty may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable."

SEC. 6. Article ten of the same Act is hereby amended to read as follows:

ART. 10. *Summary courts-martial.*-The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, commissioned vessel, detached battalion, detached company, or other detachment may appoint summary courts-martial; but such summary courts-martial may in any case be appointed by superior

authority when by the latter deemed desirable: *Provided*, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him."

SEC. 7. Article twelve of the same Act is hereby amended to read as follows:

"ART. 12. *General courts-martial*.-General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, and any other person who by the law of war is subject to trial by military tribunals: *Provided*, That no officer shall be brought to trial before a general court-martial appointed by the Superintendent of the Military Academy: *Provided*, further, That general courts-martial shall have the power to adjudge any punishment authorized by law or the customs of the service, including a bad-conduct discharge, and that in the Philippine Navy, general courts-martial may impose deprivation of liberty on shore as a punishment and in imposing a sentence of confinement may include in the sentence solitary confinement not exceeding thirty days, or solitary confinement on diminished rations not exceeding thirty days: *And provided, further*, That the officer competent to appoint a general court-martial for the trial of any particular case may, when in his judgment the interest of the service shall so require, cause any case to be tried by a special court-martial notwithstanding the limitations upon the jurisdiction of the special court-martial as to offenses set out in article thirteen; but the limitations upon jurisdiction as to persons and upon punishing power set out in said article shall be observed."

SEC. 8. Article thirteen of the same Act is hereby amended to read as follows:

"ART. 13. *Special courts-martial*.-Special courts-martial shall have power to try any person subject to military law for any crime or offense not capital made punishable by these articles. Special courts-martial shall not have power to adjudge dishonorable discharge or dismissal or confinement in excess of six months, nor to adjudge forfeiture of more than two-thirds pay per month for a period of not exceeding six months. Subject to approval of the sentence by an officer exercising general court-martial jurisdiction and subject to appellate review by the Judge Advocate General, a special court-martial may adjudge a bad-conduct discharge in addition to any other authorized punishment: *Provided*, That a bad-conduct discharge shall not be adjudged by a special court-martial unless a complete record of the proceedings of and testimony admitted by the Court is taken in the case: *And provided, further*, That in the Philippine Navy, special courts-martial may also impose deprivation of liberty on shore as a punishment and in imposing a sentence of confinement may include in the sentence solitary confinement not exceeding thirty days, or solitary confinement on diminished rations not exceeding thirty days."

SEC. 9. Article fourteen of the same Act as amended by Republic Act Numbered Two hundred and forty-two, is hereby further amended to read as follows:

"ART. 14. *Summary courts-martial.*-Summary courts-martial shall have power to try any person subject to military law, except an officer, a cadet, a flying cadet or probationary second lieutenant, for any crime or offense not capital made punishable by these article: *Provided*, That non-commissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a special court-martial: *Provided, further*, That the President may, by regulations, except from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

"Summary courts-martial shall not have power to adjudge confinement in excess of one month, restriction to limits for more than three months or forfeiture or detention of more than two-thirds of one month's pay: *Provided*, That in the Philippine Navy, summary courts-martial may also impose deprivation of liberty on shore as a punishment and in imposing a sentence of confinement may include in the sentence solitary confinement not exceeding fifteen days, or solitary confinement on diminished rations not exceeding fifteen days."

SEC. 10. Article sixteen of the same Act is hereby amended to read as follows:

"ART. 16. *Persons in the military service, how triable.*- Officers shall be triable by general and special courts-martial, and in no case shall an officer, when it can be avoided, be tried by officers inferior to him in rank. No enlisted person may sit as a member of a court-martial for the trial of another enlisted person or trainee who is assigned to the same company."

SEC. 11. Article thirty of the same Act is hereby amended to read as follows:

"ART. 30. *Method of voting.*-Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes, which count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court. The law member of a general court-martial, or the president of a special court-martial, shall rule in open court upon interlocutory questions, other than challenge, arising during the proceedings: *Provided*, That if any member objects to a ruling of the law member of a general court-martial upon a motion for a finding of not guilty or on the question of the accused's sanity, or if any member objects to any ruling of the president of a special court-martial as hereinabove provided, the court shall be cleared and closed and the question decided by a majority vote, *viva voce*, beginning with the junior in rank. A ruling made by the law member of a general court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the accused's sanity, shall be final and shall constitute the ruling of the court; but the law member in any case may consult with the court, in closed session, before making a ruling and may change any ruling made at any time during the trial. It shall be the duty of the law member of a general court-martial or the president of a special court-martial, before a vote is taken, to advise the court that the accused must be

presumed to be innocent until his guilt established by legal and competent evidence beyond a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in the accused's favor and he shall be acquitted; if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no such doubt; that the burden of proof to establish the guilt to the accused is upon the government."

SEC 12. Article thirty-eight of the same Act as amended by Republic Act Numbered Two hundred and forty-two, hereby further amended to read as follows:

"ART. 38. *As to time.*-Except for desertion, murder or rape committed in time of war, or for mutiny or for war offenses, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before the arraignment of such person: *Provided*, That for desertion in time of peace or for any crime or offense punishable under article ninety-four and ninety-five of these articles, the period of limitations upon trial and punishment by courts-martial shall be three years from the time the offense was committed: *Provided, further*, That the period of any absence of the accused from the jurisdiction of the Philippines, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing aforesaid periods of limitations: *And provided, also*, That in any case of any offense the trial of which in time of war shall be certified by the Secretary of National Defense to be detrimental to the prosecution of the war or inimical to the nation's security, the periods of limitations n provided for the trial of the said offense shall be extended to the duration of the war and six months thereafter: *Provided, finally*, That this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law."

SEC. 13. Article forty-five of the same Act is hereby amended to read as follows:

"ART. 45 *Action by convening authority.*-Under such regulations as may be prescribed by the President, every trial by general court-martial or military commission, or record of trial by special court-martial in which a bad-conduct discharge has been adjudged and approved by the authority appointing the court, received by a reviewing or confirming authority shall be referred by him, before he acts thereon, to his staff judge advocate or the Judge Advocate General. No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being: *Provided*, That no sentence of a special court-martial which includes a bad-conduct discharge shall be carried into execution until, in addition to the approval of the convening authority, the same shall have been approved by an officer authorized to appoint a general court-martial."

SEC. 14. Article fifty of the same Act as amended by Republic Act Numbered Two hundred and forty-two, is hereby further amended by (1) changing the title thereof so as to read: "*Appellate Review*"; (2) deleting entirely from the said article the