



SENATE

14 FEB 12 P2:48

S. B. No. 2119

RECEIVED

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT

PROVIDING FOR THE CODE OF MILITARY JUSTICE FOR THE ARMED FORCES OF THE PHILIPPINES AND THE PHILIPPINE COAST GUARD, REPEALING FOR THE PURPOSE COMMONWEALTH ACT NUMBERED FOUR HUNDRED EIGHT, OTHERWISE KNOWN AS THE ARTICLES OF WAR, AS AMENDED, OTHER SPECIAL LAWS, AND APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

Article XVI, Sec. 4 of the Constitution states that "*The Armed Forces of the Philippines shall be composed of a citizen armed force which 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.*" The Armed Forces, therefore, is mandated to defend the country against threats to national peace and security.

The Constitution further provides that the State shall also promote professionalism in the armed forces by providing adequate remuneration and benefits to its members. The proper recognition of the different contributions of service men and women is also considered an effective way of promoting professionalism and patriotism in the military. The State has the duty to maintain and motivate the armed forces; in the same vein, the State, therefore, has the duty to discipline them, as well.

The establishment of military law, or a military justice system, has a motivating and preventive function. It deters improper conduct and promotes an attitude of respect for authority and adherence to discipline. The establishment of military law also strengthens the national security of our country. Military law promotes justice which assists in the maintenance of good order and discipline in the armed forces thereby promoting efficiency and effectiveness in the military.

This bill seeks to establish a military code of justice for the Armed Forces of the Philippines (AFP) and the Philippine Coast Guard (PCG) to allow them to deal with matters that pertain directly to the discipline, efficiency, and morale of their members. This bill respects the unique character of military life where discipline, organization and hierarchy play a crucial role. These are important factors in maintaining the effectiveness and combat readiness of the military and the PCG.

In view of the foregoing, the immediate passage of this Act is earnestly sought.


ANTONIO "SONNY" F. TRILLANES IV
Senator

'14 FEB 12 P2:48

SENATE

S. B. No. 2119

RECEIVED BY: *Jr.*

Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT

PROVIDING FOR THE CODE OF MILITARY JUSTICE FOR THE ARMED FORCES OF THE PHILIPPINES AND THE PHILIPPINE COAST GUARD, REPEALING FOR THE PURPOSE COMMONWEALTH ACT NUMBERED FOUR HUNDRED EIGHT, OTHERWISE KNOWN AS THE ARTICLES OF WAR, AS AMENDED, OTHER SPECIAL LAWS, AND APPROPRIATING FUNDS THEREFOR

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

TITLE I. GENERAL PROVISIONS

1
2
3 **ARTICLE 1. Applicability.** – These articles shall at all times and in all places govern
4 the administration of military justice in the Armed Forces of the Philippines and the Philippine
5 Coast Guard (pursuant to Sections 2 and 6 of Republic Act 9993 or *The Philippine Coast Guard*
6 *Act Of 2009*) and shall apply to all persons subject to military law.

7
8 **Art. 2. Definition of Terms.** – The following words when used in these articles shall be
9 construed in the sense indicated in this article, unless the context shows that a different meaning
10 is intended;

11 a. “Active service” means active service rendered by a military person as a
12 commissioned officer, enlisted man, cadet, probationary officer, trainee or draftee in the Armed
13 Forces of the Philippines and the Philippine Coast Guard (PCG) and service rendered by him as a
14 civilian official or employee in the Philippine Government prior to the date of his separation or
15 retirement from the Armed Forces of the Philippines or the Philippine Coast Guard, for which
16 military and/or civilian service he/she shall have received pay from the Philippine Government
17 and/or such others as may hereafter be prescribed by law as active service;

18 b. “Accuser” means an officer who signs and swears to the charges, or directs that
19 charges nominally be signed and sworn to by another, or has an interest other than an official
20 interest in the prosecution of the accused;

21 c. “Battalion” includes a squadron or equivalent unit of the ground, air or naval
22 forces;

1 d. "Cadet" includes cadets of the Philippine Military Academy (PMA), aviation
2 cadets of the Philippine Air Force Flying School, and students of an Officer's Candidate
3 Training School of the Armed Forces of the Philippines who are not commissioned officers or
4 soldiers on active duty, or sent by Philippine Government to foreign service academies;

5 e. "Commanding Officer" refers to commissioned officers only;

6 f. "Company" includes a troop, battery, commissioned vessel, or equivalent unit of
7 the ground, air or naval forces;

8 g. "Judge Advocate" means any officer commissioned in and of the Judge Advocate
9 General's Service;

10 h. "Legal Officer" means any lawyer-officer designated to perform legal duties in a
11 command relating to the administration of military justice;

12 i. "Member of the Armed Forces of the Philippines" includes an officer, cadet,
13 soldier, trainee, draftee or candidate soldier and all persons who retired from and in the inactive
14 service of the Armed Forces of the Philippines;

15 j. "Member of the Philippine Coast Guard" includes an officer, cadet, seaman or
16 sailor, trainee, draftee or candidate seaman or sailor and all persons who retired from and in the
17 inactive service of the Philippine Coast Guard;

18 k. "Officer" means a commissioned officer in the Armed Forces of the Philippines
19 and the Philippine Coast Guard;

20 l. "Soldier" means a person in enlisted grade, trainees, draftees or candidate
21 soldiers;

22 m. "Superior Officer" means a commissioned officer superior in rank or command;

23 n. "Suspendee" is convicted military personnel whose execution of sentence is
24 suspended or held in abeyance;

25 o. "Enemy" shall be construed to include also lawless elements or any person or
26 group of persons against whom any pacification campaign is directed by the government;

27 p. A "safeguard" signifies a special privilege of protection for persons, household, or
28 property – all or either – against military marauders or other disorderly parties, granted by a
29 military commander to certain private individuals, to corporations, or to hospitals or other public
30 institutions, or places;

31 q. "Manifest Impediment" refers to such conditions as being held a prisoner of war
32 in hands of the enemy, or being imprisoned under the sentence of a civil court upon conviction of
33 crime – during the whole or a portion of the period of limitation.

34
35 **Art. 3. Persons Subject to Military Law.** - The following persons shall be understood
36 as included in the term "any person subject to military law", whenever used in these articles:

37 a. All officers and soldiers in the active service of the Armed Forces of the
38 Philippines, and soldiers awaiting issuance of reenlistment orders after expiration of their terms

1 of enlistment; all members of the reserve force from the dates of their call to active duty or
2 mobilization training and while on such active duty or training; all trainees, draftees or candidate
3 soldiers undergoing military training or service; all volunteers from the time of their muster or
4 acceptance into the Armed Forces of the Philippines; and all other persons lawfully called,
5 drafted or ordered into or for training in, in the Armed Forces of the Philippines, from the dates
6 they are required by the terms of the call, draft, or obey the same.

7 b. All officers and personnel in the active service of the Philippine Coast Guard
8 (PCG) as defined under Section 15 of Republic Act No. 9993.

9 c. Cadets and probationary second lieutenants or its equivalent in the navy.

10 d. Prisoners of war in the custody of the Armed Forces of the Philippines.

11 e. All retainers to the camp and all persons accompanying or serving the Armed
12 Forces of the Philippines in the field in time of war or when martial law is declared though not
13 otherwise subject to these articles.

14 f. Persons serving sentences imposed by courts-martial, except those transferred to a
15 penitentiary to serve their sentences thereat, unless said persons had already been arraigned
16 before a court-martial for offenses other than those for which they are serving sentences.

17
18 **Art. 4. Jurisdiction to Try Certain Personnel. –**

19 a. Subject to the provisions of Article 32, a person discharged from the service who
20 is later charged with having fraudulently obtained his discharge may be tried by court-martial on
21 that charge. Upon conviction of that charge, he is subject to trial by court-martial for all offenses
22 under these articles committed before the fraudulent discharge.

23 b. No person who has deserted from the Armed Forces of the Philippines shall be
24 relieved from amenability to the jurisdiction of these articles by virtue of separation from any
25 later period of service.

26 c. Any person who committed any offense punishable under Article 140 while in the
27 service of the Armed Forces of the Philippines or the Philippine Coast Guard and who is released
28 from active duty, discharged, separated, dismissed from the service, or dropped from the rolls
29 pursuant to Article 147, shall continue to be liable to be apprehended and held for trial and
30 sentence by a court-martial for said offense in the same manner and to the same extent as if he
31 had not been released from active duty, discharged, separated, or dismissed from the service, or
32 dropped from the rolls.

33 d. Any person who, while in the service of the Armed Forces of the Philippines,
34 commits embezzlement of money or other property entrusted to his charge by any military
35 person or persons who is released from active duty, or discharged, or dismissed from the service,
36 or dropped from the rolls pursuant to Article 147, shall continue to be liable to be apprehended
37 and held for trial and sentence by a court-martial for said offense in the manner and to the same
38 extent as if he had not been released from active duty, discharged, separated, or dismissed from

1 the service or dropped from the rolls.

2
3 **Art. 5. Judge Advocates and Legal Officers. –**

4 a. Convening authorities shall at all times communicate directly with their Staff
5 Judge Advocates or Legal Officers in all matters relating to the administration of military justice,
6 or vice versa. Intermediate or coordinating staffs concerned shall be informed accordingly for
7 monitoring purposes.

8 b. No person who has acted as a member, military judge, trial judge advocate,
9 assistant trial judge advocate, defense counsel, assistant defense counsel of a court martial,
10 investigating officer or witness in any case, may later act as a staff judge advocate or legal
11 officer to any reviewing authority upon the same case.

12
13 **TITLE II – APPREHENSION, ARREST AND CONFINEMENT**

14
15 **Art. 6. Apprehension. –**

16 a. Apprehension is the taking of a person into custody.

17 b. Any person authorized under regulations governing the Armed Forces of the
18 Philippines or the Philippine Coast Guard may apprehend persons subject to these articles or to
19 trial thereunder upon personal knowledge that an offense has been committed and that the person
20 apprehended committed it.

21 c. Any person making an apprehension shall make an immediate report to the
22 Commanding Officer to whom the apprehending person is responsible. He shall also, within six
23 (6) hours from the time of the apprehension, make a report to the immediate commander of the
24 person apprehended, or superior commissioned officer if it is impractical to inform the
25 immediate commander, without prejudice to the completion of the investigation if the same has
26 not been completed. Within twelve (12) hours from the time of apprehension, the Commanding
27 Officer of the apprehending unit shall turnover the apprehended person together with the record
28 of the investigation to the immediate commander of the person apprehended or superior
29 commissioned officer.

30 d. Nothing in this article shall limit the authority of persons authorized to apprehend
31 offenders to secure the custody of an alleged offender until proper authority is notified.

32
33 **Art. 7. Apprehension of Deserters by Civil Authorities. –** Any civil officer having
34 authority under the laws of the Philippines to arrest offenders may summarily apprehend a
35 deserter from the Armed Forces of the Philippines and deliver him into the custody of the
36 authorities concerned.

1 **Art. 8. Arrest and Confinement.** – The Commanding Officer or any responsible officer
2 may take an accused charged before a court-martial into custody during the pendency of the case,
3 subject to the approval of the court.

4 When the presence of the accused is specifically required by a court-martial, his
5 custodian, after due notice, shall immediately produce the accused before the court on the date
6 and time specified in the notice. If the accused fails to appear in person as required, the custodian
7 shall be given fifteen (15) days within which to produce his principal. Within the said period of
8 fifteen (15) days, the custodian must (a) produce the body of the principal or give the reason for
9 his non-production and (b) must explain satisfactorily why the accused did not appear before the
10 court when first required to do so. Failing in these two requisites, the custodian shall be punished
11 as a court-martial may direct. The court-martial will then issue an order for the arrest of the
12 accused, which shall be enforceable anywhere in the Philippines.

13
14 **Art. 9. Arrest or Confinement of Persons Charged with Offenses.** –

15 a. Any person subject to military law and charged with an offense punishable under
16 these articles shall be ordered into arrest or confinement, as circumstances may require; but when
17 charged only with a minor offense punishable by not more than thirty (30) days confinement, he
18 shall not ordinarily be placed in physical restraint, unless there exist reasonable grounds to
19 believe that:

- 20 (1) the person will not appear at the investigation or pre-trial investigation or trial;
21 (2) he will engage in serious criminal misconduct; or
22 (3) he has committed other offenses under these articles covered by court-martial.

23
24 When a person is placed under arrest or confinement prior to trial, he shall immediately
25 be informed of the nature of the offense or offenses for which he is being held in arrest or
26 confinement;

27 b. Any person placed in arrest under the provisions of this article shall thereby be
28 restricted to his barracks, quarters or tent, unless such limits shall be enlarged or modified by
29 proper authority.

30 c. Not later than eight (8) days after ordering a person into arrest or confinement, or
31 after receipt of a report that a member of the commander's unit has been apprehended, the
32 immediate commander shall decide whether the order of arrest or confinement of the
33 apprehended person will continue. The release of the person ordered arrested or confined shall be
34 directed by the immediate commander, unless he believes there exists reasonable grounds that:

- 35 (1) the person will not appear at the investigation, or pre-trial investigation or trial;
36 (2) he will engage in serious criminal misconduct; or
37 (3) unless severe forms of restraint are inadequate:

- 1 (iii) Arrest in quarters for not more than thirty consecutive days;
2 (iv) Forfeiture of not more than one-half of one-month's base pay per
3 month for three months;
4 (v) Detention or withholding of not more than one-half of one-month's
5 base pay per month for six months;
6 (vi) Deprivation of liberty on shore not exceeding sixty consecutive days,
7 for those attached to or embarked in a commissioned vessel of the
8 Philippine Navy or the Philippine Coast Guard.

9 (2) Upon other personnel of his command:

- 10 (a) Withholding of privilege for not more than thirty consecutive days;
11 (b) Restriction to certain specified limits, with or without suspension from duty,
12 for not more than thirty consecutive days;
13 (c) Arrest in quarters for not more than fifteen consecutive days;
14 (d) Forfeiture of not more than one-half of one month's base pay;
15 (e) Detention or withholding of not more than one month's base pay per month
16 for three months;
17 (f) With respect to those attached to or embarked in a commissioned vessel of the
18 Philippine Navy or Philippine Coast Guard:
19 (i) Deprivation of liberty on shore not exceeding thirty consecutive days;
20 (ii) Confinement on diminished rations for not more than three
21 consecutive days;
22 (g) Confinement not under guard for not more than fifteen consecutive days;
23 (h) Hard labor without confinement for not more than fifteen consecutive days;
24 (i) Extra duties, including fatigue or other duties, for not more than fifteen
25 consecutive days;
26 (j) Correctional custody for not more than fifteen consecutive days;
27 (k) Reduction to the next inferior pay grade, if the grade from which demoted is
28 within the promotion authority of the officer imposing the reduction or any
29 officer subordinate to the one who imposes the reduction;
30 (l) If imposed by an officer in the grade of Lieutenant Colonel or Commander:
31 (i) Withholding of privileges for not more than sixty consecutive days;
32 (ii) Restriction to certain specified limits, with or without suspension from
33 duty, for not more than sixty consecutive days;
34 (iii) Arrest in quarters for not more than thirty consecutive days;
35 (iv) Forfeiture of not more one half of one month's base pay per month for
36 two months;
37 (v) Detention or withholding of not more than one month's base pay per
38 month for six months;

- 1 (vi) With respect to those attached to or embarked in a commissioned
2 vessel of the Philippine Navy or Philippine Coast Guard, deprivation of
3 liberty on shore not exceeding sixty consecutive days, or confinement on
4 diminished rations for not more than three consecutive days;
- 5 (vii) Confinement not under guard for not more than thirty consecutive
6 days;
- 7 (viii) Hard labor without confinement for not more than thirty consecutive
8 days;
- 9 (ix) Extra duties, including fatigue or other duties for not more than forty-
10 five consecutive days;
- 11 (x) Correctional custody for not more than thirty consecutive days;
- 12 (xi) Reduction to the lowest or any intermediate pay grade, if the grade
13 from which demoted is within the promotion authority of the officer
14 imposing the reduction or any officer subordinate to the one who
15 imposes the reduction, but an enlisted member in a pay grade above E-4
16 may not be reduced more than two pay grades.
- 17

18 C. The officer or his successor in command who imposed the punishment may, at any
19 time, suspend provisionally any part or amount of the unexecuted punishment imposed and may
20 suspend provisionally a reduction in grade or a forfeiture, whether or not executed. He may also
21 at any time remit or mitigate any part or amount of the unexecuted punishment imposed and may
22 set aside, in whole or in part, the punishment whether or not executed, and restore all rights,
23 privileges and property affected. He may also mitigate a reduction in grade to forfeiture or
24 detention of pay.

25 D. A person punished under this article who considers his punishment unjust or
26 disproportionate to the offense may, through the proper channel, appeal to the superior authority,
27 but may in the meantime be required to serve the punishment imposed. The superior authority
28 may exercise the same powers with respect to the punishment imposed as may be exercised
29 under the preceding subsection by the officer who imposed the punishment.

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

36 F. Under such regulations as the President may prescribe, limitations may be placed
37 on the powers granted by this article with respect to the kind and amount of punishment
38 authorized and the categories of commanding officers authorized to exercise these powers. Rules

1 may also be prescribed with respect to the suspension, apportionment, remission, mitigation,
2 setting aside of the punishments imposed, or the restoration of rights and privileges properly
3 affected by the punishment imposed, and the form of records to be kept of proceedings under this
4 article, and what categories of these proceedings shall be in writing.

5 G. Any officer meted punishment under this article by an officer exercising court-
6 martial jurisdiction shall automatically be considered on non-promotable status for a period of
7 one year from the date of the imposition of the punishment. The imposition of three or more
8 disciplinary punishments during the three years next preceding the consideration for promotion
9 of an officer shall constitute a ground for deferment from promotion of the officer. Any enlisted
10 person meted punishment under this article by an officer in the grade of lieutenant colonel or
11 commander shall automatically be considered on non-promotable status for a period of one year
12 from the date of the imposition of the punishment.

13 14 **TITLE IV - COURTS-MARTIAL** 15

16 **Art. 12. Court-Martial.** – A court-martial shall be composed of a military judge and two
17 members; or only a military judge, if before the arraignment, the accused, after consultation with
18 his defense counsel, requests orally on the record or in writing that he be tried by a court
19 composed only of a military judge and said request is approved by the convening authority:
20 Provided, however, that whenever there are more than one accused and they could not agree as to
21 which court-martial would try them, they shall be tried by a military judge and two members.

22
23 **Art. 13. Jurisdiction of Court-Martial.** – The court-martial shall have the power to try
24 persons subject to these articles and any other person who by the law of war is subject to trial by
25 court-martial. Under such limitations as the President may prescribe, it may adjudge any
26 punishment authorized by law or the customs of the service. In the Philippine Navy and the
27 Philippine Coast Guard, a court-martial may impose deprivation of liberty on shore as a
28 punishment, or solitary confinement not exceeding thirty days, or solitary confinement on
29 diminished rations not exceeding thirty days.

30
31 **Art. 14. Who may Convene Court-Martial.** – The President of the Philippines, the
32 Chief of Staff of the Armed Forces of the Philippines, the Commanders of the Major Services of
33 the Armed Forces of the Philippines, the Commander of the Philippine Coast Guard, the
34 commanding officer of Area Commands; commanders of task forces, divisions, separate
35 brigades or body of troops and their respective equivalents in the Navy or Air Force or the
36 Philippine Coast Guard, provided they have Staff Judge Advocate; and the Superintendent of the
37 Philippine Military Academy and commanders of a contingent of the Armed Forces of the
38 Philippines serving in a foreign country, may convene a court-martial; but when any such

1 commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court
2 shall be convened by competent higher authority.

3
4 **Art. 15. Who May Serve in Court-Martial.** – The following may serve in a court-
5 martial:

6 a. Any officer on active duty in the Armed Forces of the Philippines or the
7 Philippine Coast Guard shall be competent to serve in a court-martial for the trial of any person
8 who may lawfully be brought before such court for trial.

9 b. Any enlisted person in the active military service of the Armed Forces of the
10 Philippines or the Philippine Coast Guard who is not a member of the same company as the
11 accused shall be competent to serve in a court-martial for the trial of any enlisted member,
12 draftee, trainee, or candidate soldier who may lawfully be brought before such court for trial.

13 c. When convening a court-martial, the convening authority shall detail as members
14 thereof those officers of the command and, when eligible and available, those enlisted members
15 of the command who, in his opinion, are best qualified for the duty by reason of age, education,
16 training, experience, length of service and judicial temperament.

17 d. When it can be avoided, no member of the Armed Forces of the Philippines or
18 Philippine Coast Guard shall be tried by court-martial any member of which is junior to the
19 former in rank or grade.

20 e. No person shall be eligible to sit as member of a court-martial when he is the
21 accuser or a witness for the prosecution or defense, or has acted as investigator or as counsel in
22 the same case.

23 f. An accused enlisted person may request orally or in writing prior to the
24 arraignment that an enlisted person serve in the court which is to try him: Provided, that in no
25 case shall the number of enlisted persons detailed exceed one-third of the total membership of
26 the court: Provided, further, That failure of the convening authority to designate an enlisted
27 person as a member of the court because eligible enlisted members cannot be designated on
28 account of physical conditions or military exigencies shall not preclude the court from
29 proceeding with the trial nor shall it affect the validity of the proceedings taken thereon, but the
30 convening authority shall make a detailed written statement, to be appended to the record, stating
31 why they could not be designated; Provided, finally, That no enlisted person shall act as member
32 of a court-martial when one of the accused is an officer.

33
34 **Art. 16. Military Judge of Court-Martial.** – The convening authority shall detail to the
35 court-martial a member of the bar, hereafter called military judge, who shall be an officer of the
36 Judge Advocate General's Service or an officer who is a member of the Philippine Bar of some
37 other branch of service and who is certified to be qualified for duty as a military judge by the
38 Judge Advocate General. No court-martial shall convene or receive evidence in the absence of

1 the military judge regularly detailed. The military judge, in addition to his duties as such, shall
2 perform such other duties as the President may, by regulations prescribe. No person is eligible to
3 act as a military judge in any case if he is the complainant or a witness for the prosecution or has
4 acted as investigating officer or counsel in the same case.

5
6 **Art. 17. Detail of Trial Judge Advocate and Defense Counsel. –**

7 a. For each court-martial, the authority convening the court shall detail a Trial Judge
8 Advocate and a defense counsel certified as competent to perform such duties by the Judge
9 Advocate General; and for each court-martial, one or more assistant Trial Judge Advocates and
10 one or more assistant defense counsels when necessary.

11 b. No person who has acted as investigating officer, military judge or court member
12 in any case may act later as Trial Judge Advocate, Assistant Trial Judge Advocate, or unless
13 expressly requested by the accused, as defense counsel or assistant defense counsel in the same
14 case. No person who has acted for the defense may act later in the same case for the prosecution.

15
16 **Art. 18. Detail or Employment of Reporters, Interpreters and Bailiffs. –**

17 a. Under such regulations as the President may from time to time prescribe, the
18 convening authority of a court-martial shall detail or employ qualified court reporters, who shall
19 record the proceedings and testimony taken before such court and may take down the same, in
20 the first instance, in shorthand. Under like regulations, the convening authority of a court-martial
21 shall detail or employ an interpreter or interpreters, who shall interpret for the court.

22 b. The convening authority of a court-martial shall detail at least two bailiffs who
23 shall attend at the proceedings of the court to maintain order, to serve warrants, summons and
24 any other process issued by the court, and to execute orders of the court. It shall also be the duty
25 of the bailiff to protect the officers of the court and secure the prisoner/accused during the trial.
26 The order appointing a military court shall include the detail of at least two bailiffs who shall be
27 selected from the enlisted personnel of the Provost Marshal. In the performance of its duties, the
28 Provost Marshal shall extend its maximum support particularly in the service of warrants,
29 summons and any other process and orders issued by the court. The bailiffs shall be under the
30 direct supervision and control of the court during the trial.

31
32 **Art. 19. Absent and Additional Member. –** No member of a court-martial shall be
33 relieved or excused after the accused has been arraigned, except for physical disability as a result
34 of a challenge for cause duly proved, or by order of the convening authority for a good cause.

1 TITLE V - PRE-TRIAL PROCEDURE

2
3 Art. 20. Challenges. – Except for the military judge, members of a court-martial may be
4 challenged by the accused or trial judge advocate for cause stated to the court. However, for
5 good cause shown, the accused or the trial judge advocate may request in writing the convening
6 authority for the relief of the military judge.
7

8 Art. 21. Compulsory Self-Incrimination Prohibited. –

9 a. No person shall be compelled to incriminate himself, or to answer any question
10 the answer to which may tend to incriminate him.

11 b. No person shall be compelled to make a statement or produce evidence before or
12 for use before a court-martial, board, or officer conducting an investigation or designated to take
13 a deposition if the statement or evidence is not material to the issue and may tend to degrade
14 him.

15 c. No person may interrogate or request any statement from an accused or a person
16 suspected of an offense without first informing him of the nature of the accusation and advising
17 him that he does not have to make any statement regarding the offense of which he is an accused
18 or suspected of committing and that any statement made by him may be used as evidence against
19 him.

20 d. No statement obtained from any person in violation of this article or in violation
21 of the Constitution or existing laws or through the use of coercion, unlawful influence, or
22 unlawful inducement may be received in evidence against him.
23

24 Art. 22. Forwarding of Charges. – When a person had committed an act within the
25 jurisdiction of a court-martial, the commanding officer shall, within eight (8) days after the
26 accused is ordered into arrest or confinement, forward the charges, together with the
27 investigation report and allied papers, to the Staff Judge Advocate or legal officer who shall
28 forthwith prepare the appropriate charge sheet, if warranted, and designate a Pre-Trial
29 Investigation Officer.
30

31 Art. 23. Pre-Trial Investigation. –

32 a. No charge or specification may be referred to a court-martial for trial until a
33 thorough and impartial investigation of all the matters set forth therein has been made. This
34 investigation shall include inquiry as to the truth of the matter set forth in the charges,
35 consideration of the form of charges and a recommendation as to the disposition which should be
36 made of the case in the interest of justice and discipline.

37 b. At such investigation, the accused shall be informed of the charges against him
38 and advised of his constitutional rights. He shall within ten days from receipt of the charge sheet

1 and all the evidence against him be given full opportunity to present his own evidence or
2 anything that he may present in his own behalf, either in defense or mitigation. The investigation
3 officer may examine available witnesses requested by the accused. If the charges are forwarded
4 after such investigation they shall be accompanied by a pre-trial investigation report containing a
5 statement of the substance of the testimony taken on or submitted by both sides.

6 c. The investigation shall, as far as practicable, be completed within a period of
7 twenty days, otherwise, the pre-trial investigation officer shall report to the convening authority
8 the reasons for delay and request extension of the period to complete the pre-trial investigation:
9 Provided, however, that the total period of extension that may be granted shall not exceed ten
10 (10) days.

11
12 **Art. 24. Advice of Staff Judge Advocate and Reference for Trial. –**

13 a. Before directing the trial of any charge by a court-martial, the convening authority
14 shall refer the same to his staff judge advocate or legal officer for consideration and advise. The
15 convening authority may not refer a specification under a charge to a court-martial for trial
16 unless he has found that the specification alleges an offense under these articles and is warranted
17 by the evidence indicated in the report of investigation.

18 b. If the charges or specifications are not formally correct or do not conform to the
19 substance of the evidence contained in the report of the investigating officer, formal corrections,
20 and such changes in the charges and specifications as are needed to make them conform to the
21 evidence, may be made.

22
23 **Art. 25. Service of Charges. –** The trial judge advocate to whom court-martial charges
24 are referred for trial shall cause to be served upon the accused a copy of the charges upon which
25 trial is to be had, and a failure to serve such charges will be ground for a continuance unless the
26 trial be had on the charges as have been served previously upon the accused. In time of peace, no
27 person may against his objection, be brought to trial before a court-martial within a period of five
28 days subsequent to the service of charges upon him.

29
30 **TITLE VI - TRIAL PROCEDURE**

31
32 **Art. 26. President May Prescribe Rules. –** The President may by regulation which he
33 may modify from time to time, prescribe pre-trial, trial and post-trial procedures, including
34 modes of proof, for cases arising under these articles within the jurisdiction of a court-martial,
35 and which regulations shall, as far as he considers practicable, apply the principles of law and the
36 rules of evidence in the courts of justice of the Philippines, but which shall not be contrary to or
37 inconsistent with these articles.

1 **Art. 27. Duties of Trial Judge Advocate and Defense Counsel. –**

2 a. The trial judge advocate of a court-martial shall prosecute in the name of the
3 People of the Philippines, and shall, under the direction of the court, prepare the record of the
4 proceedings.

5 b. The accused has the right to be represented in his defense before a court-martial
6 or at an investigation under Article 23 by civilian counsel, or by military counsel of his own
7 selection if reasonably available, or by the defense counsel duly detailed under Article 17. If the
8 accused is represented by civilian or military counsel of his own selection, the detailed military
9 defense counsel and assistant military defense counsel shall act as associate defense counsel and
10 shall take over the defense of the accused whenever the counsel of choice is not available for any
11 reason.

12 c. In every court-martial proceeding, the defense counsel may, in the event of
13 conviction, submit in writing for attachment to the record of proceedings a brief of such matters
14 as to clemency and as he determines should be considered in behalf of the accused by the
15 members of court or the reviewing authority, including any objection to the contents of the
16 record which he considers appropriate.

17 d. An assistant trial judge advocate and assistant defense counsel may, under the
18 direction of the trial judge advocate and military defense counsel, respectively, and subject to the
19 requirement of Article 17, perform any duty imposed by law, regulations, or customs of the
20 service upon the trial judge advocate and defense counsel for the accused, respectively.

21
22 **Art. 28. Closed Sessions. –** Whenever a court-martial shall sit in closed session, the trial
23 judge advocate and/or the assistant trial judge advocate, shall withdraw; and when their
24 assistance in referring to the recorded evidence is required, it shall be obtained in open court, and
25 in the presence of the accused and of his counsel.

26
27 **Art. 29. Continuances. –** A court-martial may, for reasonable cause, grant a continuance
28 to any party for such time and as often as may appear to be just and proper.

29
30 **Art. 30. Challenges. –** The members of a court-martial may be challenged by the
31 accused or the trial judge advocate for cause stated to the court. The court shall determine the
32 relevance and validity of challenges for cause. It may not receive a challenge to more than one
33 person at a time. Challenges by trial judge advocate shall ordinarily be presented and decided
34 before those by the accused are offered. No peremptory challenge shall be allowed.

35
36 **Art. 31. Oaths. –** Before performing their respective duties, military judges, members of
37 courts-martial, trial judge advocate, assistant trial judge advocate, defense counsel, assistant or
38 associate defense counsel, reporters, and interpreters shall take an oath or affirmation to perform

1 their duties faithfully. The form of the oath or affirmation, the time and place of the taking
2 thereof, the manner of recording the same, and whether the oath or affirmation shall be taken for
3 all cases in which these duties are to be performed or for a particular case, shall be as prescribed
4 in regulations by the President.

5
6 **Art. 32. Period of limitation.** – Except for desertion, mutiny or for war offenses
7 punishable under these articles and for murder or rape committed in times of war, no person
8 subject to military law shall be tried or punished by a court martial for any crime or offense
9 committed more than three (3) years before the charge sheet is referred to the trial judge
10 advocate for trial. Provided, that for desertion in time of peace or for any crime or offense
11 punishable under Article 139 and 140, the period of limitation upon trial and punishment by
12 court-martial shall be five years from the time the offense was discovered by the authorities.
13 Provided further, that the period of any absence of the accused from the jurisdiction of the
14 Philippines or any period during which by reason of some manifest impediment the accused is
15 not amenable to military jurisdiction, shall be excluded in computing the aforesaid periods of
16 limitations. Provided also, that for any crime or offense the trial of which in time of war is
17 certified to the President by the Secretary of National Defense to be detrimental to the
18 prosecution of the war or inimical to the national security, the period of limitation prescribed in
19 this Article for the trial of said crimes and offenses shall be extended to the duration of the war
20 and one year after the termination of hostilities as proclaimed by the President or by a joint
21 resolution of the Congress. Provided finally, that this Article shall not have the effect of
22 authorizing the trial and punishment for any crime or offenses barred by the provisions of
23 existing law.

24
25 **Art. 33. Former Jeopardy.** –

26 a. No person shall be tried a second time for the same offense, but no proceeding in
27 which an accused has been found guilty by a court-martial upon a charge or specification shall be
28 considered a trial in the sense of this article until the reviewing and, if there be one, the
29 confirming authority, shall have taken final action upon the case.

30 b. A proceeding which, after the introduction of evidence but before a finding, is
31 dismissed or terminated by the convening authority or on motion of the prosecution for failure of
32 available evidence or witnesses without any fault of the accused, is a trial in the sense of this
33 article.

34
35 **Art. 34. Pleas of the Accused.** – If an accused after arraignment makes an irregular plea,
36 or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has
37 entered the plea of guilty through negligence or through lack of understanding of its meaning and
38 effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the

1 court shall proceed as though he had pleaded not guilty.
2

3 **Art. 35. Process to Obtain Witnesses and Other Evidence.** – Every trial judge
4 advocate, defense counsel and every court-martial shall have equal opportunity to obtain
5 witnesses and other evidence in accordance with such regulations as the President may prescribe.
6 Processes issued in court-martial cases to compel witnesses to appear and testify and to compel
7 witnesses to appear and testify and to compel the production of other evidence shall be similar to
8 that which courts of the Philippines having criminal jurisdiction may lawfully issue and shall be
9 enforceable in any part of the Philippines.
10

11 **Art. 36. Refusal to Appear or Testify.** – Any person subject to military law shall be
12 guilty of contempt if he has been duly subpoenaed to appear as a witness before any court-
13 martial, board, or officer appointed to conduct investigation under the provisions of Article 23 or
14 before any military or civil officer designated to take a deposition to be read in evidence before
15 such court, board, or officer and he willfully neglects or refuses to appear, or refuses to qualify as
16 a witness, or testify, or produce documentary evidence which such person may have been legally
17 subpoenaed to produce: Provided, however, That the witness shall be entitled to such fees and
18 traveling expenses as the Chief of Staff, Armed Forces of the Philippines may prescribe, which
19 shall be duly paid or tendered to the witness. Such amount shall be paid out of the appropriations
20 of the Armed Forces of the Philippines.
21

22 **Art. 37. Indirect Contempt.** – Any person not subject to military law shall be guilty of
23 contempt if after he has been duly subpoenaed to appear as a witness before any court-martial,
24 board or officer appointed to conduct investigation under the provisions of Article 23 or before
25 any military or civil officer appointed to take a deposition to be read before such court, board or
26 officer, willfully neglects or refuses to appear, or refuses to qualify as a witness or testify, or
27 produce documentary evidence which such person may have been legally subpoenaed to
28 produce. Any person who, upon proof or service and receipt thereof, fails, without justifiable
29 cause, to obey a subpoena served upon him shall be deemed in indirect contempt and the court,
30 board of officer issuing the subpoena may issue a warrant to the provost marshal to arrest the
31 witness and bring him before the court, board or officers where his attendance is required;
32 Provided, that the testimony of the witness is vital to the resolution of the case and it could not be
33 obtained in any other manner; Provided further, that a civilian witness is not bound to obey a
34 subpoena if his residence is more than fifty (50) kilometers away from the place of trial, hearing
35 or investigation by the usual course of travel and; Provided finally, that the civilian witness shall
36 be entitled to such expenses as the Chief of Staff, Armed Forces of the Philippines or the
37 Commandant of the Philippine Coast Guard may prescribe which shall be given to the witness
38 within a reasonable period of time prior to the hearing and that such amount shall be paid out of

1 the appropriations of the Armed Forces of the Philippines.
2

3 **Art. 38. Depositions. –**

- 4 a. At any time after charges have been signed as provided in Article 20, any party may take
5 oral or written depositions unless an authority competent to convene a court-martial for
6 the trial of those charges forbids it for good cause. If a deposition is to be taken before
7 charges are referred for trial, such an authority may designate officers to represent the
8 prosecution and the defense and may authorize those officers to take the deposition of
9 any witness.
- 10 b. Depositions to be read in evidence before military boards, or for other use in military
11 administration, may be taken before and authenticated by any military or civil officer
12 authorized by the laws of the Philippines or by the laws of the place, where the deposition
13 is taken to administer oaths.
- 14 c. The party at whose instance a deposition is to be taken shall give to every other party
15 reasonable written notice of the time and place for taking the deposition.

16 A duly authenticated deposition taken upon reasonable notice to the parties, so far as
17 otherwise admissible under the rules of evidence, may be read in evidence before any military
18 court, or in any proceeding before a military board, if such deposition be taken where the witness
19 resides, is found, or is about to go outside of the Philippines, or beyond the distance of one
20 hundred and fifty kilometers from the place of trial or hearing, and will probably continue to be
21 absent when the testimony is required; or when it appears to the satisfaction of the court, board,
22 or convening authority that the witness, by reason of age, sickness, bodily infirmity,
23 imprisonment, military necessity, non-amenability to process, or other reasonable cause, is
24 unable or refuses to appear and testify in person at the place of trial or hearing or the present
25 whereabouts of the witness is unknown.

26
27 **Art. 39. Voting and Rulings. –**

28 a. Voting by members of a court-martial, where the accused has not opted to be tried
29 by a military judge alone upon questions of challenge, on the findings and on the sentence, shall
30 be by secret ballot. The most junior member of the court shall in each case count the votes. The
31 votes shall be checked by the most senior member who shall forthwith announce the result of the
32 voting to the members of the court.

33 b. The military judge of a court-martial shall rule in open court upon interlocutory
34 questions. Any ruling made by the military judge upon any interlocutory question other than on a
35 motion for a finding of not guilty, challenge for cause, or on the question of the sanity of the
36 accused, shall be final and shall constitute the ruling of the court; but the military judge in any
37 case may consult other members of the court, in closed session, before making a ruling and may
38 change any ruling made at any time during the trial. If any member objects to a ruling of the

1 military judge of a court-martial upon a motion for a finding of not guilty, challenge for cause, or
2 on the question of the sanity of the accused, the same shall be decided by a majority vote by viva
3 voce, beginning with the junior in rank. Any such ruling shall be final and shall not be subject to
4 appeal or review by the civil courts.

5 c. Before a vote is taken on the findings, the military judge shall, in the presence of
6 the parties, advise the members of the court that:

- 7 1) The accused must be presumed to be innocent until his guilt is established by legal and
8 competent evidence beyond reasonable doubt;
- 9 2) In the case being considered, if there is a reasonable doubt as to the guilt of the
10 accused, the doubt shall be resolved in favor of the accused and he shall be acquitted;
- 11 3) If there is a reasonable doubt as to the degree of guilt, the finding must be in a lower
12 degree than when there is no such doubt; and
- 13 4) The burden of proof to establish the guilt of the accused beyond unreasonable doubt is
14 upon the prosecution except in cases where the burden is shifted on the defense.

15
16 **Art. 40. Number of Votes Required. –**

17 a. No person shall be convicted:

- 18 1) Of an offense for which the death penalty is made mandatory by law, except by the
19 unanimous vote of all the members of the court-martial;
- 20 2) Of any other offense, except by the concurrence of the military judge and another
21 member; Provided, however, that the voting required under this sub-section shall not
22 apply in cases where the accused is tried by a military judge alone.

23 b. No person may be sentenced to:

- 24 1) death in offenses expressly made punishable by such in these articles or in any other
25 applicable provision of law, except by the unanimous vote of all the members of the
26 court-martial;
- 27 2) life imprisonment or confinement for more than six (6) years of any other applicable
28 provision of law, except by the concurrence of the military judge and another member;
29 Provided, however, that the voting required under this subsection shall not apply in
30 cases where the accused is tried by a military judge alone.

31 c) All other questions except interlocutory ones shall be determined by a majority vote or
32 by the military judge where the accused is tried by a military judge alone.

33
34 **Art. 41. Court to Announce Action. –** A court-martial once it closes to deliberate on its
35 findings and sentence shall not adjourn until its verdict is announced in open court unless, in the
36 court's opinion, good reason exists for not making the finding of guilty and the sentence public at
37 that time. In this latter event, the most senior member may state in open court that the findings
38 and the sentence are not to be announced.

1 **Art. 45. Effective Dates of Sentence. –**

2 a. Whenever a sentence of a court-martial lawfully adjudged includes a forfeiture of pay
3 and allowances in addition to confinement not suspended, the forfeiture shall apply to all pay and
4 allowances due and to become due on the date such sentence is approved by the convening
5 authority.

6 b. Any period of confinement included in a sentence of a court-martial begins to run from
7 the date the sentence is adjudged by the court-martial and the accused shall commence to serve
8 the sentence. For good behavior, the accused who has undergone confinement shall be credited
9 in the service of his sentence consisting of deprivation of liberty with the full time during which
10 he has undergone preventive confinement.

11 c. All other sentences of court-martial are effective on the date they are ordered executed.

12
13 **Art. 46. Execution of Confinement. –**

14 a. Except for desertion in time of war, repeated desertion in time of peace, and mutiny, no
15 person under the sentence of court-martial shall be punished by confinement in a penitentiary
16 unless an act or omission of which he is convicted is recognized as an offense of a civil nature
17 and so punishable by penitentiary confinement for more than three (3) years by a law of the
18 Philippines, or by way of commutation of death sentence, and unless, also the period of
19 confinement authorized and adjudged by such court-martial is more than three (3) years.

20 b. When a sentence of confinement is adjudged by a court-martial upon conviction of two
21 or more acts or omissions, any one of which is punishable under these articles by confinement,
22 the same may be executed in a penitentiary.

23 c. The penitentiary confinement herein authorized may be served in any penitentiary
24 under the jurisdiction of the Philippines.

25 d. Persons sentenced to dishonorable discharge and to confinement not in a penitentiary
26 shall be confined in the Armed Forces of the Philippines Custodial Center or elsewhere as the
27 President or the reviewing authority may direct, but not in a penitentiary.

28 e. The omission of the words "hard labor" from any sentence of a court-martial adjudging
29 imprisonment or confinement does not deprive the authority executing such sentence of
30 imprisonment of the power to require hard labor as part of the punishment in any case where it is
31 authorized by regulations prescribing maximum punishments.

32 f. When the accused who is placed in custody is acquitted, the court shall order his
33 immediate release from confinement, unless he is being held for some other charge.

34
35 **TITLE VIII - REVIEW OF COURT-MARTIAL PROCEEDING**

36
37 **Art. 47. Effect of Irregularities. –** The proceedings of a court martial shall not be held
38 invalid nor the findings or sentence disapproved in any case on the grounds of improper

1 admission or rejection of evidence or for any error as to any matter of pleading or procedure,
2 unless in the opinion of the convening or reviewing authority, after an examination of the entire
3 proceedings, it shall appear that the error complained of has injuriously affected the substantial
4 rights of the accused.

5
6 **Art. 48. Disposition of Records. –**

7 a. After trial by a court-martial the trial judge advocate shall, with dispatch as
8 circumstances may permit, forward the original records of the proceedings of each case to the
9 staff judge advocate or legal officer who shall review and submit his written opinion thereon to
10 the convening authority or to his successor in command or to the officer commanding for the
11 time being.

12 b. All records of a court-martial proceeding shall, after having been finally acted upon, be
13 transferred to the Judge Advocate General of the Armed Forces of the Philippines for
14 safekeeping.

15
16 **Art. 49. Action by the Convening Authority. –**

17 a. After the judge advocate or legal officer shall have reviewed the record of trial, he shall
18 forward the same to the convening authority. Action thereon may be taken by the officer who
19 convened the court, an officer commanding for the time being, a successor in command, or any
20 officer exercising court-martial jurisdiction.

21 b. No sentence of a court-martial shall be carried into execution until the same shall have
22 been approved by the officer convening the court, or by the officer commanding for the time
23 being, or by a successor in command. Unless the convening authority indicates otherwise, his
24 approval of the sentence is approval of the findings and sentence.

25
26 **Art. 50. Powers Incident to Power to Approve. –** The power to approve the sentence of
27 a court-martial includes:

28 a. The power to approve or disapprove a finding of guilty and to approve only so much of
29 a finding of guilty of a particular offense as involves a finding of guilty of a lesser included
30 offense when, in the opinion of the authority having power to approve, the evidence on record
31 requires a finding of only the lesser degree of guilt;

32 b. The power to approve or disapprove the whole or part of the sentence; and

33 c. The power to remand a case for rehearing under Article 52.

34
35 **Art. 51. Reconsideration and Revision. –**

36 a. If a specification before a court-martial has been dismissed on motion and the finding
37 does not amount to an acquittal, the convening authority may return the record to the court for
38 reconsideration of the ruling and any further appropriate action.

1 b. Where there is an apparent error or omission in the record or where the record shows
2 improper or inconsistent action by a court-martial with respect to a finding or sentence which can
3 be rectified, without material prejudice to the substantial rights of the accused, the convening
4 authority may return the record to the court for appropriate action. In no case however may the
5 record be returned for reconsideration of:

6 1) An acquittal;

7 2) A finding of not guilty of any specification, or a ruling thereon which amounts to a
8 finding of not guilty;

9 3) A finding of not guilty of any charge, unless the record shows a finding of guilty under
10 a specification laid under that charge, which sufficiently alleges a violation of some
11 other offenses punishable under these articles; or

12 4) The sentence originally imposed, with a view to increasing it unless such sentence is
13 less than the sentence fixed by law for the offenses upon which the conviction has been
14 had.

15 c. No court-martial in any proceeding on revision shall reconsider its findings or sentence
16 in any particular case in which return of the record of trial for such reconsideration is herein
17 before prohibited.

18
19 **Art. 52. Rehearing. --**

20 a. A rehearing shall be had in all cases where errors of law have been committed
21 injuriously affecting the substantial rights of the accused unless in accord with such action, the
22 finding or sentence are approved in part only, or the record is returned for revision, or unless the
23 case is dismissed by the reviewing authority.

24 b. A rehearing shall take place before a court-martial composed of officers, or officers
25 and enlisted persons, not a military judge or members of the court-martial which first heard the
26 case. Upon such a rehearing, the accused shall not be tried for any offense of which he was found
27 not guilty by the first court-martial, and no sentence in excess of or more severe than the original
28 sentence shall be imposed, unless the sentence is based upon a finding of guilty of an offense not
29 considered upon the merits in the original proceedings, or unless the sentence prescribed for the
30 offense is mandatory.

31 c. If the reviewing authority disapproves or vacates a sentence the execution of which has
32 not heretofore been duly ordered, he may authorize or direct a rehearing except where there is
33 lack of sufficient evidence in the record to support the findings, or when a rehearing is
34 impractical. If the reviewing authority disapproves the sentence and orders a rehearing, he shall
35 state the reasons for disapproval. If he disapproves the sentence and does not order a rehearing,
36 he shall dismiss the charges.

37 d. If the sentence after the first court-martial is approved, but the accused at the rehearing
38 changes his plea with respect to the charges or specification with which he was found guilty and

1 sentenced, the sentence as to those charges or specifications may include any punishment not in
2 excess of that lawfully adjudged at the first court-martial.

3
4 **Art. 53. Review by the Judge Advocate or Legal Officer. –**

5 A. Each case in which there has been a finding of guilty shall be reviewed by a judge
6 advocate or legal officer, provided he has not acted in the same as an accuser, witness,
7 investigating officer, member of the court, military judge, or otherwise acted on behalf of the
8 prosecution or defense. In such case the review shall be conducted by a judge advocate or legal
9 officer to be designated by the convening authority. The review shall be in writing and shall
10 contain:

11 (1) conclusion as to whether:

- 12 a) the court had jurisdiction over the person of the accused and each offense;
13 b) each charge and specification stated an offense; and
14 c) the sentence was within the limits prescribed by law.

15 (2) A response to each allegation of error made in writing by Article 27 (c) or directly
16 with the judge advocate or legal officer who reviewed the case.

17 B. The record of trial and related documents in each case reviewed under subsection a
18 hereof shall be sent for action to the convening authority or to the successor in command or
19 whenever impractical to any person exercising court-martial jurisdiction within the command.

20 C. The reviewing authority may:

- 21 (1) approve or disapprove the findings and/or sentence, in whole or in part;
22 (2) remit, commute, or suspend the sentence in whole or in part;
23 (3) order a rehearing on the findings or sentence, or both except where the
24 evidence was insufficient at the trial to support the findings or;
25 (4) dismiss the charges.

26
27 **Art. 54. Suspension of Sentence. –**

28 a. The convening authority of a court-martial may, at the time of the approval of such
29 sentence or at any time thereafter, while the sentence is being served, suspend the execution, in
30 whole or in part, of any such sentence, including all uncollected forfeitures, except that a death
31 sentence shall not be suspended.

32 b. The power to suspend a sentence includes the power to restore the person affected to
33 duty during such suspension.

34 c. No sentence approved or confirmed by the President shall be suspended by any other
35 authority.

36
37 **Art. 55. Lifting of Suspension. –**

38 a. Before lifting the suspension of a sentence as approved, the officer having court-

1 martial jurisdiction over the suspendee shall order a summary hearing on the reported violation
2 of the terms of the suspension of sentence. The suspendee shall be allowed to submit evidence in
3 support of his request for the continuation of the suspension of his sentence.

4 b. If the officer exercising court-martial jurisdiction lifts the suspension, any
5 unexecuted part of the sentence, except dismissal, shall be executed, subject to applicable
6 restrictions in Article 57 (c). The lifting of the suspension of dismissal is not effective until
7 approved by the President.

8 c. The suspension of any other sentence may be lifted by any authority competent to
9 convene a court-martial for the command in which the accused is serving or assigned.

10
11 **Art. 56. Petition for a New Trial.** - At any time within two (2) years after approval by
12 the convening authority of a court-martial sentence but before its execution the accused may
13 petition the Judge Advocate General for a new trial on the grounds of newly discovered evidence
14 or fraud on the court. If the case of the accused is pending before the Court of Military Appeals,
15 the Judge Advocate General shall refer the petition to said court. Otherwise, the Judge Advocate
16 General shall act upon the petition. With regard to cases involving offenses committed during
17 time of war, the application for new trial may be made within one (1) year after the termination
18 of the war as proclaimed by the President or by a joint resolution of Congress or within two (2)
19 years after approval by the convening authority of the sentence, as herein provided, whichever is
20 the later. Only one such application for a new trial shall be entertained with respect to any one
21 case.

22
23 **Art. 57. Mitigation or Remission of Sentence.** -

24 a. The power to order the execution of the sentence adjudged by a court-martial
25 includes, inter alia, the power to mitigate or remit the whole or any part of the sentence.

26 b. Any unexecuted portion of a sentence adjudged by a court-martial, including all
27 uncollected forfeitures, may be mitigated or remitted by the convening authority exclusive of
28 penitentiaries and disciplinary barracks of the Armed Forces of the Philippines or the Philippine
29 Coast Guard in which the person under sentence is held.

30 c. When a sentence of dishonorable discharge has been suspended until the soldier's
31 release from confinement, the execution or remission of any part of his sentence shall, if the
32 soldier be confined in the penitentiary or any barracks thereof, be directed by Chief of Staff,
33 Armed Forces of the Philippines or the Commandant of the Philippine Coast Guard.

34 d. A sentence, or any part thereof which has been suspended may be remitted or
35 mitigated, in whole or in part, by the officer who suspended the same, except in cases of persons
36 confined in penitentiaries, or by his successor in command, or by any officer exercising
37 appropriate court-martial jurisdiction over the command in which the person under sentence may
38 be serving at the time.

1 e. The death or honorable discharge of a person under suspended sentence shall
2 operate as a complete remission of any unexecuted or unremitted part of such sentence.

3 f. The Secretary of National Defense or the Secretary of Transportation and
4 Communications may, for good cause, substitute an administrative form of discharge or
5 dismissal executed in accordance with the sentence of a court-martial.

6
7 **Art. 58. Restoration –**

8 a. Under such regulations as the President may prescribe, all rights, privileges, and
9 property affected by an executed part of a court-martial sentence which has been set aside or
10 disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or
11 rehearing is ordered and such executed portion is included in a sentence imposed upon the new
12 trial or rehearing.

13 b. If a previously executed sentence of dishonorable discharge is not imposed on a
14 new trial, the Chief of Staff, Armed Forces of the Philippines or the Commandant of the
15 Philippine Coast Guard shall substitute therefore a form of discharge authorized for
16 administrative issuance unless the accused is to serve out the remainder of his enlistment or
17 reenlistment.

18 c. If a previously executed sentence of dismissal is not imposed on a new trial, the
19 President shall substitute therefore a form of dismissal authorized for administrative issuance and
20 the officer dismissed by such sentence may be re-appointed by the President to such commission
21 grade and with the rank, as in the opinion of the President such a former officer would have
22 attained had he not been dismissed. The reappointment of such former officer shall be without
23 regard to existence of a vacancy and shall effect the promotion status of other officers only in so
24 far as the President may direct. All time between the dismissal and reappointment shall be
25 considered as actual service for all purposes, including the right to receive pay and allowances.

26
27 **Art. 59. Finality of Proceedings, Findings, and Sentence. –** The appellate review of
28 records of trial provided by these Articles, the proceedings, findings, and sentence of court-
29 martial as approved, reviewed, or affirmed as required by these Articles, and all dismissals and
30 discharges carried into execution under sentences by court-martial following approval, review, or
31 affirmation as required by these Articles, are final and conclusive. The Order publishing the
32 proceedings of court-martial and all actions taken pursuant to those proceedings are binding
33 upon all departments, courts, agencies and officers of the Philippine Government, subject only to
34 action upon petition for new trial and action by the Secretary of National Defense or the
35 Secretary of Transportation and Communications as provided in Article 57 (f) and the authority
36 of the President.

1 **Art. 60. Execution of Sentence. –**

2 a. If the sentence of a court-martial includes death, that part of the sentence
3 providing for death shall not be executed until the same is transmitted to the President who may
4 commute, remit, or suspend the sentence or any part thereof as he sees fit. Otherwise, the
5 sentence shall be executed.

6 b. If in case of an officer, cadet, or probationary second lieutenant, the sentence of
7 court-martial includes dismissal, that part of the sentence providing for dismissal shall not be
8 executed until approved by the Secretary of National Defense or Secretary of Transportation and
9 Communications, as the case may be, who may commute, remit, or suspend the sentence, or any
10 part of the sentence, as he sees fit.

11 c. If the sentence extends to death, dismissal, or a dishonorable discharge, that part
12 of the sentence extending to death, shall not be executed until there is a final judgment as to the
13 legality of the proceedings, and with respect to death or dismissal, under subsection (a) or (b), as
14 appropriate. A judgment as to the legality of the proceedings is final in such cases when review
15 is completed in accordance with the judgment of the Court of Military Appeals and (1) a petition
16 for a writ of certiorari is not filed with the Supreme Court within the time limits; or (2) such
17 petition is rejected by the Supreme Court; or (3) review is otherwise completed in accordance
18 with the judgment of the Supreme Court.

19 d. Any other part of a court-martial sentence may be ordered executed by the
20 convening authority when approved by the latter.

21
22 **Art. 61. Review by the Judge Advocate General. –**

23 a. The record of the trial in each court martial shall be examined in the Office of the
24 Judge Advocate General if the finding of guilty and the sentence, as approved by the convening
25 authority, is:

26 (1) Death;

27 (2) Confinement for one year or more;

28 (3) Confinement for less than one (1) year and the accused appealed to the Office of
29 the Judge Advocate General within fifteen (15) days from the receipt of notice of
30 approval of sentence by the convening authority;

31 (4) Dishonorable discharge of an enlisted person; or

32 (5) Involves the dismissal of an officer, cadet, or probationary second lieutenant. If
33 any part of the findings or sentence is found to be unsupported in law or if reassessment
34 of the sentence is inappropriate, the Judge Advocate General may vacate, modify, set
35 aside the findings or sentence or both, as the case may be.

36 b. If the Judge Advocate General sets aside the findings or sentence, he may order a
37 rehearing except when the setting aside is based on lack of sufficient evidence in the record to
38 support the findings, in which case he shall order that the charges be dismissed. If he orders a

1 rehearing, but the convening authority finds a rehearing impractical, the convening authority
2 shall dismiss the charges.

3 4 TITLE IX - COURT OF MILITARY APPEALS 5

6 **Art. 62. Creation, Appointment, and Qualifications of Justices.** - There is hereby
7 created a Court of Military Appeals, which shall consist of a Presiding Justice and five (5)
8 Associate Justices who shall be appointed by the President of the Philippines from civilians who
9 are not less than forty (40) years of age at the time of appointment and engaged in the practice of
10 law in the Philippines for not less than ten (10) years or held for a like period an office in the
11 Philippine Government service requiring admission to the practice of law in the Philippines as an
12 indispensable requisite, preferably with substantial experience in handling cases before a court
13 martial or representing military personnel before any court of justice, or have been for a like
14 period on active military service with the Judge Advocate General's Service of the Armed Forces
15 of the Philippines.

16
17 **Art. 63. Precedence in Appointments of Justices.** - The Presiding Justice of the Court
18 of Military Appeals shall be so designated in his appointment and the other Justices of the court
19 shall have precedence according to the dates of their respective appointments, or when the
20 appointments of two or more of them shall bear the same date, according to the order in which
21 their appointments have been issued by the President of the Philippines.

22
23 **Art. 64. Tenure of Office and Removal.** - The Presiding Justice and Associate Justices
24 of the Court of Military Appeals shall hold office during good behavior until they reach the age
25 of seventy (70) years or become incapacitated to discharge their duties. They may be removed by
26 the President of the Philippines, upon notice and hearing, for neglect of duty or malfeasance in
27 Office or for mental or physical disability, but for no other cause.

28
29 **Art. 65. Sitting of Court.** - The Court of Military Appeals, shall as a body, sit en banc,
30 but it may sit in two divisions of three (3) Justices each. The two (2) divisions may sit at the
31 same time. If the Presiding Justice is present in any sessions of the court, whether en banc or in
32 division, he shall preside. In his absence, the Associate Justice attending who is first in
33 precedence in accordance with Article 63 shall preside.

34
35 **Art. 66. Filling of Vacancy in Office of Presiding Justice.** - In case of a vacancy in the
36 Office of the Presiding Justice or the Court of Military Appeals, or in the event of his inability to
37 perform the duties and functions of his office, they shall devolve upon the Associate Justice who
38 is first in precedence, until such disability is removed, or another Presiding Justice is appointed

1 and has qualified. This provision and the provision of Article 63 shall apply to every Associate
2 Justice who succeeds to the Office of the Presiding Justice.

3
4 **Art. 67. Filling of Vacancy in Office of Associate Justices.** – In case of vacancy in the
5 Office of any one of the Associate Justices of the Court of Military Appeals, or in the event that
6 any one of said Associate Justices is absent, or disabled, or incapacitated for any reason, to
7 perform the duties and powers of his office, the President of the Philippines, upon request of the
8 Presiding Justice of the Court of Military Appeals and upon recommendation of the Chief Justice
9 of the Supreme Court, may appoint an Executive Judge of the Regional Trial Court to sit
10 temporarily in the Court of Military Appeals, until such disability is removed or the vacancy is
11 permanently filled.

12
13 **Art. 68. Rank, Salary, and Benefits of Justices.** - The Presiding Justice and Associate
14 Justices of the Court of Military Appeals shall have the same rank and receive the salary,
15 emoluments, retirement pay and benefits corresponding to those of the Presiding Justice and
16 Associate Justices of the Court of Appeals of the Philippines, respectively.

17
18 **Art. 69. Jurisdiction.** – The Court of Military Appeals shall have jurisdiction to review
19 the record in all cases:

20 a. In which the sentence, as affirmed by the Judge Advocate General, extends to
21 death, confinement for one year or more, dishonorable discharge of an enlisted person;

22 b. In which the sentence involves the dismissal of an officer, cadet, probationary
23 second lieutenant;

24 c. In which the Judge Advocate General has elevated the same to the Court of
25 Military Appeals for review;

26 d. In which after review by the Judge Advocate General a petition is filed by the
27 accused with the Court of Military Appeals within sixty (60) days from receipt of notice of the
28 review of the Judge Advocate General and upon good cause shown, the Court of Military
29 Appeals has granted a review on the case.

30
31 **Art. 70. Review of Decision of Judge Advocate General.** – The accused may petition
32 the Court of Military Appeals for a review of the decision of the Judge Advocate General within
33 sixty (60) days from (a) the date on which the accused is notified of such decision or (b) the date
34 on which a copy of the decision of the Judge Advocate General, after a copy thereof is served on
35 the appellate counsel of record, if any, is deposited in the Philippine mails for delivery by first
36 class certified mail to the accused or counsel at an address provided by the accused or counsel, or
37 if no such address has been provided by the accused or counsel, at the latest address listed for the
38 accused in his official service record or that of counsel as appearing in the record. The court of

1 Military Appeals shall act upon such petition promptly in accordance with the rules of said court.

2
3 **Art. 71. Findings and Sentence or Issues to be reviewed.** - In any case reviewed by it,
4 the Court of Military Appeals may act only with respect to the findings and sentence as approved
5 by the convening authority, and as affirmed or set aside as inappropriate by the Judge Advocate
6 General. In cases sent by the Judge Advocate General to the Court of Military Appeals, the
7 review shall be limited to the issues raised by him. In the review cases granted upon petition of
8 the accused, action need be taken only with respect to issues specified in the grant or review. The
9 Court of Military Appeals shall review both questions of fact and law, irrespective of the penalty
10 involved, especially in cases where the appeal is initiated by the accused: Provided, that where
11 the sentence imposed is death or life imprisonment, the petition shall be immediately sent to the
12 Supreme Court for review in accordance with Article 74.

13
14 **Art. 72. Setting Aside of Findings and Sentence and Ruling.** - If the Court of Military
15 Appeals sets aside the findings and sentence, it may, except where the setting aside is based on
16 lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside
17 the findings and sentence and does not order a rehearing, it shall order that the charges be
18 dismissed.

19
20 **Art. 73. Return of Record.** - After it has acted on a case, the Court of Military Appeals
21 shall return the records of the case to the Judge Advocate General for any implementation of the
22 decision of the Court, and unless there is further action to be taken by the President, the
23 Secretary of National Defense or Secretary of Transportation and Communications, as the case
24 may be, the Judge Advocate General shall advise the convening authority to take action in
25 accordance with that decision. If the Court ordered a rehearing, but the convening authority finds
26 a rehearing impracticable, the latter may dismiss the charges.

27
28 **Art. 74. Petition for Review on Certiorari.** - The accused may file with the Supreme
29 Court a petition for review on certiorari of a decision of the Court of Military Appeals. Such
30 review shall be limited to questions of law which shall be directly set forth in the petition and
31 shall be governed by the provisions of the Revised Rules of Court prescribing the procedure for
32 appeals from the Court of Appeals to the Supreme Court: Provided, that where the sentence
33 imposed is death or life imprisonment, the review may be on questions of fact and of law.

34
35 **Art. 75. Place of Session.** - The Court of Military Appeals shall hold its session in
36 Metropolitan Manila. Whenever the public interest so requires, and upon approval of the
37 Presiding Justice, any division may hold its sessions in any other place within the Philippines.

1 **Art. 76. Quorum and Vote for Pronouncement of Judgment.** – Five (5) Justices of the
2 Court of Military Appeals shall constitute a quorum for its sessions en banc, and three (3)
3 Justices shall constitute a quorum for the sessions of a division. In the absence of a quorum, the
4 Court or the division shall stand ipso facto adjourned until such time as the requisite number
5 shall be present, and a memorandum showing this fact shall be entered by the clerk in the
6 minutes of the Court. The affirmative vote of four (4) Justices is necessary to pass a resolution of
7 the Court en banc. The unanimous vote of the three (3) Justices of a division shall be necessary
8 for the pronouncement of a judgment. In the event that the three (3) Justices do not reach a
9 unanimous vote, the Presiding Justice shall designate two (2) Justices from among the other
10 Justices of the court to sit temporarily with them, forming a division of five (5) Justices and the
11 concurrence of a majority of such division shall be necessary for the pronouncement of a
12 judgment.

13
14 **Art. 77. Power to Promulgate Rules.** - The Court of Military Appeals, sitting en banc,
15 shall promulgate its own rules to govern the procedure in the court and the allotment of cases
16 between the divisions, the regular rotation of Justices between them, and other matters relating to
17 the business of the Court, and these rules shall continue in force until repealed or altered by it.

18
19 **Art. 78. Appointment, Qualifications, and Compensation of Clerks of Court, and**
20 **Compensation of other Officers and Employees.** –

21 a. The Court of Military Appeals shall appoint a clerk of court, who shall exercise
22 the same powers and perform the same duties in regard to all matters within its jurisdiction, as
23 are exercised and performed by the clerk of the Supreme Court of the Philippines, insofar as the
24 same may be applicable, and in the exercise of those powers and in the performance of those
25 duties, the clerk shall be under the direction of the Court. No person may be appointed clerk of
26 the Court of Military Appeals unless he has been engaged for five (5) years or more in the
27 practice of law, or has been clerk or deputy clerk of a court of record for the same period of time.
28 The clerk of Court shall receive the same annual compensation as that of the Court of Appeals.

29 b. The Court of Military Appeals may appoint two Deputy Clerks of Court who shall
30 have the same qualifications and annual compensations as that of the first deputy and second
31 deputy clerks of the Court of Appeals. The Court of Military Appeals may appoint other officers
32 and employees in such number and with such compensations as may be hereafter authorized.

33
34 **Art. 79. Department Head Functions of Presiding Justice.** - The functions of
35 Department Head for the Court of Military Appeals and its subordinates shall be exercised by the
36 Presiding Justice, or in case of his death, absence, or disability, by the Associate Justice on duty
37 who holds the most senior appointment.

1 **Art. 80. Administrative Control and Removal of Employees.** - The Court of Military
2 Appeals shall have exclusive administrative control of all matters affecting the internal
3 operations of the Court. Except as regards the appointment and compensation of the private
4 secretaries and assistants to the individual Justices as the Court may authorize, all subordinates
5 and employees of the Court of Military Appeals shall be governed by the provisions of the Civil
6 Service Law.

7
8 **Art. 81. Attendance of Sheriff in Session and Authority.** - The Sheriff of the City or of
9 the province where the Court of Military Appeals may be in session shall, in person or by his
10 deputy, attend the sessions of the Court of Military Appeals, enforce proper decorum in the court
11 room, and preserve good order. To this end, he shall carry into effect the rules or orders of the
12 Court made in his behalf, of any Justice thereof, and shall arrest any person there disturbing the
13 court or violating the peace.

14
15 **Art. 82. Service of Processes by Sheriff.** - Writs, processes, and orders of the Court of
16 Military Appeals, or of any Justice thereof, shall be served or executed by the Sheriff of the City
17 or of the province where the Court of Military Appeals may be in session, or by any officer
18 having authority to execute the writs, processes, or orders of a Regional Trial Court.

19
20 **Art. 83. Opinion Book.** - When a decision is rendered by the Court of Military Appeals,
21 a written opinion or memorandum containing the ground and scope of the judgment of the court
22 shall be filed with the Clerk of the Court and shall be by him recorded in an Opinion Book.

23
24 **Art. 84. Appellate Counsel. -**

25 a. The Judge Advocate General shall detail one or more commissioned officers as
26 appellate government counsel and one or more commissioned officers as appellate defense
27 counsels who are qualified under Article 17.

28 b. The Appellate Government Counsel shall represent the Republic of the
29 Philippines before the Court of Military Appeals when directed to do so by the Judge Advocate
30 General. He shall also represent the Republic of the Philippines before the Supreme Court of the
31 Philippines when requested to do so by the Solicitor General.

32 c. The Appellate Defense Counsel shall represent the accused before the Court of
33 Military Appeals or the Supreme Court of the Philippines when the accused is a party in the case
34 before such court and (1) the accused requests to be represented by the Appellate Defense
35 Counsel; and (2) the Judge Advocate General has sent the case to the Court of Military Appeals.
36 The accused is a party in the case when named as a party in the pleadings before the Court or,
37 even not so named, when the military judge or any member of the court-martial is named as
38 respondent in a petition by the Government for any extra ordinary relief.

1 **TITLE X - PUNITIVE ARTICLES**

2
3 **Art. 85. Principal.** – Any person subject to military law who:

4 a. Commits an offense punishable by these Articles or aids, abets, counsels,
5 commands, or procures its commission, or;

6 b. Causes an act to be done, which if directly performed by him would be punished
7 under this article as principal.

8
9 **Art. 86. Accomplice.** – Any person subject to military law who, not being included in
10 Article 85, participates in the execution of the offense by previous or simultaneous acts would be
11 punished under these articles as an accomplice.

12
13 **Art. 87. Accessory After the Fact.** – Any person subject to military law who, knowing
14 that an offense punishable by these articles has been committed, receives, comforts, or assists the
15 offender in order to hinder or prevent his apprehension, trial, or punishment is an accessory after
16 the fact and shall be punished as a court martial may direct.

17
18 **Art. 88. Conviction of a Lesser Included Offense.** - An accused may be found guilty of
19 an offense necessarily included in the offense charged or of any attempt to commit either the
20 offense charged or an offense necessarily included therein.

21
22 **Art. 89. Attempts.** -

23 a. Any person subject to military law who conspires with any person to commit an
24 offense punishable by these articles shall be punished as a court-martial may direct, unless a
25 penalty is otherwise specifically prescribed therefor.

26 b. An act done with specific intent to commit an offense under these articles,
27 amounting to more than mere preparation and tending, even though failing, to effect its
28 commission, is an attempt to commit the offense.

29
30 **Art. 90. Conspiracy.** - Any person subject to military law who conspires with any person
31 to commit an offense punishable under these articles shall, if one or more of the conspirators
32 does an act to effect the object of the conspiracy, be punished as a court-martial may direct.

33
34 **Art. 91. Solicitation.** -

35 a. Any person subject to military law who solicits or advises another or others to
36 desert in violation of Article 96 or to commit mutiny in violation of Article 106 shall, if the
37 offense solicited, or advised is committed, be punished for the offenses so committed. If the
38 offense solicited or advised is not committed or is merely attempted, he shall be punished as a

1 court-martial may direct.

2 b. Any person subject to military law who solicit or advises another or others to
3 commit an act of misbehavior before the enemy in violation of Article 113, or sedition in
4 violation of Article 106 shall, if the offense solicited or advised is committed be punished for the
5 offense committed. If the solicited is not committed, he shall be punished as a court-martial may
6 direct.

7
8 **Art. 92. Fraudulent Enlistment, Appointment, Separation or Retirement.** - Any
9 person who procures his own enlistment or appointment in the military service of the Philippines
10 by willfully making false representation or deliberate concealment as to his qualification for
11 enlistment or appointment and receives pay or allowances thereunder; or procures his own
12 separation or retirement therefrom by knowingly making false representation or deliberate
13 concealment as to his eligibility for that separation or retirement, shall be punished as a court-
14 martial may direct.

15
16 **Art. 93. Unlawful, Enlistment, Appointment, Separation or Retirement.** - Any person
17 subject to military law who, effect an enlistment or appointment in, or a separation or retirement
18 from, the service of any person known to him to be ineligible for that enlistment, appointment,
19 separation or retirement because it is not authorized by law, regulation, or order, shall be
20 dismissed from the service or suffer such other punishment as a court-martial may direct.

21
22 **Art. 94. Making False Returns or Omitting to Render Returns.** -

23 a. Every officer whose duty is to render to the headquarters of his command or unit,
24 to higher headquarters, or to other superior authority a return of the state of the troops under his
25 command, or of the arms, ammunition, clothing, funds or other property thereunto belonging,
26 who knowingly makes a false return thereof, shall be dismissed from the service or suffered such
27 other punishment as a court-martial may direct.

28 b. Any officer who, through neglect or design, omits to render such return, shall be
29 punished as a court-martial may direct.

30
31 **ARTICLE 95. Desertion.** -

32 a. Any member of the *Armed Forces of the Philippines or Philippine Coast Guard* on
33 active duty who:

34 (1) without authority, goes or remain absent from his unit, organization, or place of duty
35 with intent to remain away therefrom permanently; or

36 (2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or
37 shirk important services; or

38 (3) without being regularly separated from the *Armed Forces of the Philippines* or

1 Philippine Coast Guard enlists or accepts an appointment in the armed forces or coast
2 guard of another country without fully disclosing the fact that he has not been regularly
3 separated therefrom except when authorized by the Republic of the Philippines, is
4 guilty of desertion.

5 b. Any officer who, after tendering of his resignation or request for his reversion from
6 active duty, and before due notice of its acceptance or approval, quits his post or proper duties
7 without leave and with intent to remain away therefrom permanently, is guilty of desertion.

8 c. Any person found guilty of desertion or attempt to desert shall be punished, if the
9 offense were committed in time of war, by death or such other punishment as a court-martial
10 may direct.

11
12 **Art. 96. Advising, Persuading or Assisting Another to Dessert.** - Any person subject
13 to military law who advises or persuades, or knowingly assists another, to desert the services of
14 the Armed Forces of the Philippines or the Philippine Coast Guard shall be punished, if the
15 offense is committed in time of war, by life imprisonment. If the offense is committed at any
16 other time, the offender shall be punished as a court-martial may direct.

17
18 **Art. 97. Entertaining a Deserter.** - Any officer who, after having discovered that a
19 person subject to military law in his command is a deserter from the service, retains such deserter
20 in his command without informing superior authority or the commanding officer of the organizer
21 shall be punished as a court-martial may direct.

22
23 **Art. 98. Absence Without Leave.** - Any member of the Armed Forces of the Philippines
24 or Philippine Coast Guard on active duty who, without authority fails to go to his appointed
25 place of duty at the time prescribe; goes out of place; absents himself or remains absent from his
26 unit, organization, or place of duty at which he is required to be at the time prescribed; through
27 neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the
28 course of duty to move, shall be punished a court-martial may direct.

29
30 **Art. 99. Contempt Towards Superior Officer.** - Any officer who uses contemptuous or
31 disrespectful words against and in the presence of the President, the Vice-president, Members of
32 Congress or the Secretary of National Defense or Secretary of Transportation and
33 Communication shall be guilty of direct contempt and may be dismissed from the service or
34 suffer such other punishment as a court-martial may direct. However, when the contemptuous or
35 disrespectful words against the said government officials mentioned herein are uttered in their
36 absence the same shall be considered as indirect contempt and shall be punished as a court-
37 martial may direct.

1 **Art. 100. Disrespect Towards Superior Officer.** - Any person subject to military law
2 who behaves with disrespect to any superior officer shall be punished as a court-martial may
3 direct.

4
5 **Art. 101. Assaulting or Willfully Disobeying a Superior Officer.** - Any person subject
6 to military law who, on any pretense whatsoever:

7 a. strikes his superior officer or draws or lifts up any weapon or offers any violence
8 against him while he is in the execution of his office; or

9 b. willfully disobeys any lawful command of his superior officer, shall be punished, if the
10 offense is committed in time of war, by life imprisonment and if the offense is committed at any
11 other time, by such other punishment, as a court-martial may direct.

12
13 **Art. 102. Insubordinate Conduct Towards Non-Commissioned Officer.** - Any
14 enlisted personnel of the Armed Forces of the Philippines or the Philippine Coast Guard who
15 strikes or assaults, or who attempts or threatens to strike or assaults, a non-commissioned officer
16 while the latter is in the execution of his office, or treats with contempt or is disrespectful in
17 language or deportment toward a non-commissioned officer while the latter is in the execution of
18 his office shall be punished as a court martial may direct.

19
20 **Art. 103. Failure to Obey Order or Regulation.** - Any person subject to military law
21 who violates or fails to obey any lawful general order or regulation; having knowledge of any
22 other lawful general order issued by a member of the Armed Forces of the Philippines or
23 Philippine Coast Guard, which is his duty to obey, fails to obey the order; or is derelict in the
24 performance of his duties, shall be punished as a court-martial may direct.

25
26 **Art. 104. Giving Illegal Order.** - Any person subject to military law who shall
27 knowingly give illegal order or one in violation of law or regulations to persons under his
28 command shall, be punished as a court-martial may direct.

29
30 **ART. 105. Cruelty and Maltreatment** - Any person subject to this chapter who is guilty
31 of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be
32 punished as a court-martial may direct.

33
34 **Art. 106. Mutiny or Sedition.** -

35 a. Any person subject to military law who, with intent to usurp or override military
36 authority, refuses, in concert with any other persons, to obey order or otherwise do his duty or
37 creates any violence or disturbance shall be liable for mutiny and punished by life imprisonment;

38 b. Any person subject to military law who, with intent to cause the overthrow or

1 destruction of lawful civil authority, in concert with any other person, revolts or creates violence,
2 or other disturbance against that authority, shall be liable for sedition and shall be punished by
3 life imprisonment;

4 c. Any person subject to military law, who fails to do his utmost to prevent and suppress
5 a mutiny or sedition being committed in his presence, or fails to take all reasonable means to
6 inform his superior or commanding officer of a mutiny or sedition which he knows or has reason
7 to believe is taking place, shall be liable for such failure to suppress or report a mutiny or
8 sedition, and shall be punished by life imprisonment or such other penalty as a court-military
9 may direct;

10 d. Any person who is found guilty of an attempt to commit mutiny, sedition or failure to
11 suppress or report a mutiny or sedition shall be punished by life imprisonment or such other
12 penalty as a court-martial may direct.

13
14 **Art. 107. Resistance, Breach of Arrest and Escape.** - Any person subject to military
15 law who breaks his arrest or escapes from confinement, whether before or after trial or sentence
16 and before he is set at liberty by proper authority, or resists lawful apprehension, shall be
17 dismissed from the service or suffer such other punishment as a court-martial may direct.

18
19 **Art. 108. Releasing Prisoner Without Proper Authority.** - Any person subject to
20 military law who, without proper authority, release any prisoner committed to his charge, or who
21 through neglect or design suffers any such prisoner to escape, shall be punished as a court-
22 martial may direct whether or not the prisoner was committed in strict compliance with law.

23
24 **Art. 109. Unlawful Detention.** - Any person subject to military law who, unlawfully
25 apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

26
27 **ART. 110. Non-Compliance with Procedural Rules.** - Any person subject to this article
28 who—

29 (1) is responsible for unnecessary delay in the disposition of any case of a person accused
30 of an offense under this act; or

31 (2) knowingly and intentionally fails to enforce or comply with any provision of this act
32 regulating the proceedings before, during, or after trial of an accused; shall be punished as a
33 court-martial may direct.

34
35 **Art. 111. Dereliction of Duty in the Apprehension, Delivery or Custody of Military**
36 **Offenders. Answerable to the Civil Authorities.** - Any commanding officer who refuses or
37 willfully neglects, except in time of war, to discharge the duties prescribed in Article 9 shall be
38 dismissed from the service or suffer such other punishment as a court-martial may direct.

1 **Art. 112. Misbehavior Before the Enemy.** - Any person subject to military law who,
2 before or in the presence of the enemy, commits any of the following, shall be punished by life
3 imprisonment or such other punishment as a court-martial may direct:

4 a. runs away;

5 b. shamefully abandons, '*surrenders*', or delivers up any command, unit, place or military
6 property which it is his duty to defend;

7 c. through disobedience, neglect, or intentional misconduct, endangers the safety of any
8 such command, unit, place or military property;

9 d. casts away his arms or ammunition;

10 e. quits his place of duty to plunder or pillage;

11 f. causes false alarm in any command, unit or place under control of the Armed Forces of
12 the Philippines or the Philippine Coast Guard;

13 g. willfully fails to do his utmost to encounter, engage, capture, or destroy any troops,
14 combatants, vessels, aircraft, or any other thing, which it is his duty to encounter, engage,
15 capture, or destroy;

16 h. does not afford all practical relief and assistance to any troops, combatants, vessels, or
17 aircraft, of the Armed Forces of the Philippines or the Philippine Coast Guard and/or friendly
18 forces when engaged in battle, and;

19 i. solicits or advises another or others to commit an act of misbehavior before the enemy
20 in violation of these Articles.

21
22 **Art. 113. Subordinate Compelling Commander to Surrender.** - Any person subject to
23 military law who compels or attempts to compel the commander of any place, vessel, aircraft, or
24 other military property, or of any body of the Armed Forces of the Philippines or Philippine
25 Coast Guard and/or friendly forces to give it up to an enemy or to abandon it, or who delivers or
26 surrenders the colors or flag to an enemy without proper authority, shall be punished by life
27 imprisonment or such other punishment as a court-martial may direct.

28
29 **Art. 114. Improper Use of Countersign.** - Any person subject to military law who, in
30 time of war or serious disturbance of the peace, discloses the parole or countersign to any person
31 not entitled to receive it or who gives to another who is entitled to receive and use the parole or
32 countersign, a different parole or countersign from that which, to his knowledge, he was
33 authorized and required to give, shall be punished by life imprisonment or such other punishment
34 as a court-martial may direct.

35
36 **Art. 115. Violating a Safeguard.** - Any person subject to military law who in time of
37 war or serious disturbance of the peace, violates a safeguard shall suffer life imprisonment or
38 such other punishment as a court-martial may direct.

1 **Art. 116. Captured or Abandoned Property. -**

2 a. All persons subject to military law shall secure all public property taken from the
3 enemy for the service of the Republic of the Philippines, and shall give notice and turn over to
4 the proper authority without delay all captured or abandoned property in their possession,
5 custody or control;

6 b. Any person subject to military law who fails to carry out the duties prescribed in
7 subsection (a) buys, sells, trades, or in any way deals in or disposes captured or abandoned
8 property, whereby he receives or expects any profit, benefit, or advantage to himself; or engages
9 in looting or pillaging, shall be punished by fine or imprisonment, or both, or by such other
10 punishment as a court-martial may direct.

11 **Art. 117. Aiding the Enemy. -** Any person subject to military law who aids, or attempts
12 to aid, the enemy with arms, ammunition, supplies, money or other things; or without proper
13 authority, knowingly harbors or protects or gives intelligence to, or communicates or
14 corresponds or holds any intercourse with the enemy, either directly or indirectly, shall suffer life
15 imprisonment or such punishment as a court-martial may direct.
16

17 **Art. 118. Misconduct as Prisoner. -** Any person subject to military who, while in the
18 hands of the enemy for the purpose of securing favorable treatment from his captors, acts without
19 proper authority in a manner contrary to law, customs, or regulation, to the detriment of others of
20 whatever nationality held by the enemy as civilian or military prisoners; or while in a position of
21 authority over such persons maltreats them without justifiable cause, shall be punished as a
22 court-martial may direct.
23

24 **Art. 119. Spying. -** Any person who, in time of war, is found lurking as a spy in or about
25 any place, vessel or aircraft within the control or jurisdiction of the Armed Forces of the
26 Philippines or the Philippine Coast Guard; or in or about any shipyard, any manufacturing or
27 industrial plant, or any other place or institution engaged in work in aid of the prosecution of the
28 war by the Republic of the Philippines, or elsewhere, shall be tried by a court-martial and upon
29 conviction shall be punished by life imprisonment.
30

31 **Art. 120. Espionage (as committed by persons subject to military justice) -**

32 (a) Any person subject to this Code who, with intent or reason to believe that it is to be
33 used to the injury of the Philippines or to the advantage of a foreign nation, communicates,
34 delivers, or transmits, or attempts to communicate, deliver, or transmit, to any entity – either a
35 foreign government, its agents, or any faction or unit of any foreign armed forces - either directly
36 or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic
37 negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the
38

1 national or coastal defense shall be punished as a court-martial may direct, except that if the
2 accused is found guilty of an offense that directly concerns:

3 (1) advanced weaponry, early warning systems, or other means of defense or retaliation
4 against large scale attack,

5 (2) war plans,

6 (3) communications intelligence or cryptographic information, or

7 (4) any other major weapons system or major element of defense strategy, the accused
8 shall be punished with life imprisonment as a court-martial may direct.

9 (b) A sentence of life imprisonment may be adjudged by a court-martial for an offense
10 under this article only if the members unanimously find, beyond a reasonable doubt, one or more
11 of the following aggravating factors:

12 (1) The accused has been convicted of another offense involving espionage or treason for
13 which a sentence of imprisonment for life was authorized by statute.

14 (2) In the commission of the offense, the accused knowingly created a grave risk of
15 substantial damage to the national security.

16 (3) In the commission of the offense, the accused knowingly created a grave risk of death
17 to another person.

18 (4) Any other factor that may be prescribed by the President in his capacity as
19 Commander-in-Chief.

20
21 **Art. 121. False Official Statement. -**

22 a. Any officer who, with intent to deceive, signs any false record, return, regulations,
23 orders, or other official document knowing the same to be false, or makes any other false official
24 statement knowing the same to be false, shall be dismissed from the service or suffer such other
25 punishment as a court-martial may direct.

26 b. Any other person subject to military law who commits any of the acts enumerated in
27 the preceding subsection shall be punished as a court-martial may direct.

28
29 **Art. 122. Military Property - Loss, Damage, Destruction, Wrongful Disposition or**
30 **Sale to the Enemy. -** Any person subject to military law who without proper authority, sells or
31 otherwise disposes of, or willfully or through neglect, destroys, or loses or causes damage to, or
32 willfully or through neglect suffers to be lost, spoiled, damaged, destroyed, sold or wrongfully
33 disposed of, any military property of the Republic of the Philippines, shall make good the loss or
34 damage and suffer or such punishment as a court-martial may direct. If the military property in
35 the above paragraph is a firearm, ammunition, explosive or other military ordnance, and is sold,
36 or caused to be sold, to the enemy, the penalty shall be life imprisonment.

1 **Art. 123. Property other than Military Property of the Philippines - Waste, or**
2 **Destruction.** - Any person subject to military law who willfully or recklessly wastes, spoils, or
3 otherwise willfully and wrongfully destroys or damages any property other than military
4 property of the Republic of the Philippines shall be punished as a court-martial may direct,
5

6 **Art. 124. Improper Hazarding of Military Vehicle, Aircraft or Vessel, -**

7 a. Any person subject to military law who willfully and wrongfully hazards or suffers to
8 be hazarded any vessel, vehicle or aircraft of the Armed Forces of the Philippines or the
9 Philippine Coast Guard shall be dismissed from the service or suffer such other punishment as a
10 court-martial may direct.

11 b. Any person subject to military law who negligently hazards or suffer to be hazarded
12 any vehicle, aircraft or vessel of the Armed forces of the Philippines or the Philippine Coast
13 Guard shall be punished as a court-martial may direct.
14

15 **Art. 125. Drunken or Reckless Driving.** - Any person subject to military law who
16 operates any vehicle or vessel while drunk, or in a reckless or wanton manner, shall be punished
17 as court-martial may direct.
18

19 **Art. 126. Drunk on Duty.** - Any person subject to military law who is found drunk on
20 duty shall, if the offense is committed in time of war, shall be dismissed from the service or
21 suffer such other punishment as a court-martial may direct. If the offense be committed at any
22 other time, he shall be punished as a court-martial may direct.
23

24 **Art. 127. Misbehavior of Sentinel.** - Any sentinel or lookout who is found drunk or
25 sleeping upon his post, or leaves it before he is regularly relieved, shall be punished, if the
26 offense is committed in time of war, by life imprisonment or such other punishment, as a court-
27 martial may direct. If the offense is committed at any other time, the offender shall be punished
28 as a court-martial may direct.
29

30 **Art. 128. Personal Interest in Sale of Provision.** - Any officer commanding any
31 garrison, fort, barracks, camp or other place where troops of the Republic of the Philippines may
32 be serving who, for his private advantage, levies any duty or imposition upon or is interested,
33 directly or indirectly, in the sale of any victuals or other necessaries of life brought into such
34 garrison, fort, barracks, camp or place for the use of troops, shall be dismissed from the service
35 and suffer such other punishment as a court-martial may direct.
36

37 **Art. 129. Intimidation of Person Bringing Provisions.** - Any person subject to military
38 law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing

1 provisions, supplies or other necessaries to the garrison, fort, barracks, camp or other place
2 where troops of the Republic of the Philippines may be serving, shall suffer such punishment as
3 a court-martial may direct.

4
5 **Art. 130. Dueling.** - Any person subject to military law who fights or promotes, or is
6 concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or
7 about to be sent, fails to report the fact promptly to the proper authority, shall, if an officer, be
8 dismissed from the service or suffer such other punishment as a court-martial may direct; and if
9 any other person subject to military law, shall suffer such punishment as a court-martial may
10 direct.

11
12 **Art. 131. Malingering.** - Any person subject to military law who, for the purpose of
13 avoiding work, duty or service, feigns illness, physical disablement, mental lapse or
14 derangement; or intentionally inflicts self-injury, shall be punished as a court-martial may direct.

15
16 **Art. 132. Good Order to be Maintained and Wrongs Redressed.** - All persons subject
17 to military law are to behave themselves orderly in quarters, garrison, camp and on the march;
18 and any person subject to military law who commits any waste or spoiling or willfully destroys
19 any property whatsoever (unless by order of his commanding officer), or commits any kind of
20 depredation or riot, or breach of the peace, shall be punished as a court-martial may direct. Any
21 commanding officer who, upon complaint made to him, refuses or omits to see reparation made
22 to the party injured, in so far as the offender's pay shall go toward such reparation as provided for
23 in Article 142, shall be dismissed from the service, or otherwise punished as a court martial may
24 direct.

25
26 **Art. 133. Provoking Speeches or Gestures.** - Any person subject to military law who
27 uses any provoking or reproachful words or gestures toward any other person subject to military
28 law shall be punished as a court-martial may direct.

29
30 **Art. 134. Command Responsibility.** - Any commanding officer who refuses to act or
31 delays action on a valid complaint against a person under his command, or refuses or delays to
32 impose a disciplinary punishment when warranted by the evidence, or otherwise aids or abets the
33 wrongdoing of a subordinate, shall be subject to action under Article 11 or punished as a court-
34 martial may direct.

35
36 **Art. 135. Unlawfully Influencing Action of Court.** -

37 a. Any authority convening a court-martial or any other commanding officer who shall
38 censure, reprimand, or admonish the court or any member thereof, with respect to the findings or

1 sentence adjudged by the court-martial or with respect to any other exercise of its or his
2 functions in the conduct of the proceeding, shall be punished as a court-martial may direct.

3 b. Any person subject to military law who shall attempt to coerce, harass or, by any
4 means, unlawfully influence the action of a court-martial or any other member thereof, in
5 reaching the findings or sentence or conclusions in any case, or the action of any convening,
6 approving, reviewing, authority with respect to its or his judicial acts, shall be punished as a
7 court-martial may direct.

8
9 **Art. 136. Murder or Rape in Time of War.** - Any person subject to military law who
10 commits murder or rape as defined in the Revised Penal Code in time of war shall suffer life
11 imprisonment as a court-martial may direct.

12
13 **Art. 137. Various Crimes.** - Members of the Armed Forces of the Philippines and other
14 persons' subject to military law who commit crimes or offenses penalized under the Revised
15 Penal Code, other penal laws or local government ordinances, regardless of whether or not
16 civilians are co-accused or offended parties, which may be natural or juridical persons, shall be
17 tried by the proper civil court, except when the offense, as determined before arraignment by the
18 Judge Advocate General, is service connected, in which case, the offense shall be tried by a
19 court-martial. Violations of Articles 91 to 137 and Articles 140 to 141, commonly known as
20 purely military offenses, shall be exclusively tried by court-martial.

21
22 **ART. 138. Sodomy and Bestiality.** -

23 a. Any person subject to this code who engages in unnatural carnal copulation with
24 another person of the same sex or with an animal is guilty of sodomy. Penetration, however
25 slight, is sufficient to complete the offense.

26 b. Any person found guilty of sodomy shall be punished as a court-martial may direct.

27
28 **Art. 139. Frauds Against the Government.** - Any person subject to military law who
29 commits any of the following acts:

30 a. Makes or causes to be presented to any person in the civil or military service thereof,
31 for approval or payment any claim against the Government, or any officer thereof, knowing such
32 claim to be false or fraudulent;

33 b. Enters into any agreement or conspiracy to defraud the Government by obtaining, or
34 aiding others to obtain the allowance or payment of any false or fraudulent claim;

35 c. For the purpose of obtaining, or aiding others to obtain the approval, allowance, or
36 payment of any claim, against the Government or any officer thereof, knowing such claim to be
37 false or fraudulent;

38 d. For the purpose of obtaining or aiding others to obtain, the approval, allowance, or

1 payment of any claim against the Government or any officer thereof, makes or procures, or
2 advises the making of, any fact or to any writing or other paper knowing such oath to be false;

3 e. For the purpose of obtaining or aiding others to obtain, the approval, allowance, or
4 payment of any claim against the Government or any officer thereof, forges or counterfeits, or
5 procures or advises the forging or counterfeiting of any signature upon any writing or other
6 paper, or uses, or procures or advises the use of any such signature, knowing the same to be
7 forged or counterfeited;

8 f. Having charge, possession, or control of any money or other property of the
9 Government furnished or intended for the military service thereof, knowingly delivers, or causes
10 to be delivered, to any person having authority to receive the same, any amount thereof less than
11 for which he receives a certificate or receipt;

12 g. Being authorized to make or deliver any paper certifying the receipt of any property of
13 the government furnished or intended for the military service thereof, makes or delivers to any
14 person such writing, without having full knowledge of the truth of the statements therein
15 contained and with intent to defraud the Government;

16 h. Steals, embezzles, knowingly and willfully misappropriates, applies to his own use or
17 benefit or wrongfully or knowingly sells or disposes of any ordinance, arms, equipment,
18 ammunition, clothing, subsistence stores, money, or other property of the Government furnished
19 or intended for the military service thereof;

20 i. Knowingly purchases or receives in pledge for any obligation or indebtedness from any
21 soldier, officer, or other person who is part of or employed in the Armed Forces of the
22 Philippines or the Philippine Coast Guard, any ordinance, arms, equipment, ammunition,
23 clothing, subsistence stores, or other property of the government, such soldier, officer, or other
24 person not having lawful right to sell or pledge the same; or

25 k. Enters into any agreement or conspires to commit any of the offenses aforesaid;
26 shall, upon conviction, be punished by fine or imprisonment, or by such other punishment as a
27 court-martial may direct, or by any or all of said penalties.

28
29 **Art. 140. Conduct Unbecoming of an Officer and a Gentlemen.** - Any officer, cadet,
30 or probationary second lieutenant who is convicted of conduct unbecoming of an officer and a
31 gentleman shall be dismissed from the service.

32
33 **Art. 141. General Article.** - Though not specifically mentioned in these articles, all
34 disorders and neglects to the prejudice of good order and military discipline and all conduct of a
35 nature to bring discredit upon the Armed Forces of the Philippines or the Philippine Coast Guard
36 and crimes and offenses not capital which persons subject to military law may commit, shall be
37 punished as a court-martial may direct taking into consideration the nature and degree of the
38 offense.

1 **TITLE XI - MISCELLANEOUS PROVISIONS**

2
3 **Art. 142. Article to Administer Oaths.** - The following officers on active duty in the
4 Armed Forces of the Philippines or Philippine Coast Guard shall have authority to administer
5 oaths for the purposes of administering justice and for other purposes of military administrations:

6 a. All judge advocates and legal officers;

7 b. The president, members, military judge, trial judge advocate, and assistant trial judge
8 advocate of court-martial;

9 c. The president or chairman of a military board;

10 d. All officers designated to take a deposition;

11 e. All officers detailed to conduct an investigation;

12 f. All adjutants and assistant adjutants; and

13 g. All administrative officers; and

14 h. All officers designated by regulations of the Armed Forces of the Philippines or the
15 Philippine Coast Guard and by statute.

16
17 **Art. 143. Articles to be Explained.** - Articles 3, 4, 6, 11, 15, 17, 21, 27, 44, 85 to 142
18 and 144 to 146 shall be carefully read and explained to soldiers at the time of his enlistment,
19 reenlistment or entrance on active duty, or within six (6) days thereafter, and shall be read and
20 explained once every six (6) months to soldiers of every garrison, regiment, or company in the
21 service of the Philippines.

22
23 **Art. 144. Complaints of Wrongs.** - Any member of the Armed Forces of the Philippines
24 or Philippine Coast Guard on active duty who believes himself wronged by his commanding
25 officer, and who upon due application to that commanding officer, is refused redress, may
26 complain to any superior commissioned officer, who shall forward the complaint to the officer
27 exercising court-martial jurisdiction over the officer against whom it is made. The officer
28 exercising court-martial jurisdiction shall examine the complaint and take proper measures for
29 redressing the wrong complained of, and he shall, as soon as possible, send to the Chief of Staff
30 of the Armed Forces of the Philippines or the Commandant of the Philippine Coast Guard a true
31 statement of that complaint, with the proceedings had thereon.

32
33 **Art. 145. Redress of Damage to Property.** -

34 a. Whenever complaint is made to any commanding officer that a damage has been done
35 to the property of any person or that of his property has been wrongfully taken by persons
36 subject to military law, he may, subject to such regulations as the President may prescribe,
37 convene a board to investigate the complaint. The board shall consist of from one to three
38 officers and, for the purpose of that investigation it shall have the power to summon witnesses

1 and examine them upon oath and affirmation, to receive deposition or other documentary
2 evidence, and to assess damages sustained against the responsible parties. The assessment of
3 damages made by such board is subject to the approval of the commanding officer in the amount
4 approved by him and shall be charged against the pay of the offenders. The order of the
5 commanding officer directing the charges herein authorize is conclusive on any disbursing
6 officer for the payment by him to the injured parties of the damages so assessed and approved.

7 b. If the offenders cannot be ascertained, but the organization or detachment to which
8 they belong is known, charges totaling the amount of damages assessed and approved may be
9 made in such proportion as may be deemed just upon the individual members thereof who are
10 shown to have been present at the scene at the time the damages complained of were inflicted as
11 determined by the approved findings of the board.

12
13 **Art. 146. Officers, Separation from the Service.** - No officer shall be dismissed from
14 the service except by order of the President or by sentence of a court martial; and in time of
15 peace, no officers shall be dismissed except in pursuance of the sentence of a court-martial or in
16 mitigation thereof; but the President may at any time drop from the rolls of the Armed Forces of
17 the Philippines or the Philippine Coast Guard, any officer who had been absent from duty
18 without leave for at least three months or who had been absent in confinement in a prison or
19 penitentiary for at least three months after conviction by a court of competent jurisdiction.

20
21 **Art. 147. Soldiers - Separation from the Service.** - No enlisted personnel in the service
22 of the Armed Forces of the Philippines or the Philippine Coast Guard shall be discharged from
23 said service before his term of service has expired, except by order of the President, the Chief of
24 Staff of the Armed Forces of the Philippines or the Commandant of the Philippine Coast Guard,
25 and the commanders of the Major Services or by sentence of a court-martial. The authority of the
26 President, the Chief of Staff of the AFP and the Commandant of the PCG and Commanders of
27 the Major Services of the AFP to order the discharge of an enlisted personnel may be delegated
28 by administrative regulation.

29
30 **Art. 148. Constitutionality.** - If for any reasons or reason, any part of this Act shall be
31 held to be unconstitutional or invalid, other parts hereof which are not affected thereby shall
32 continue to be in full force and effect.

33
34 **Art. 149. Transitory Provisions.** - All offenses committed and all penalties, forfeitures,
35 fines or liabilities incurred prior to the effective date of this Act under any law embraced in or
36 modified, changed or repealed by this Act shall be prosecuted, punished, and enforced, and
37 action thereon completed, in the same manner and with the same effect as if this Act had not
38 been passed. However, if the penal provisions for an offense under this Act are more favorable or

1 less severe to the offender than those in force at the time the offense was committed, and such
2 offense is pending prosecution at the time the corresponding provisions of this Act take effect, or
3 is prosecuted after such provisions take effect, the more favorable or less severe provisions of
4 this Act shall apply in the prosecution and punishment of that offense.

5
6 **Art. 150. Applicability.** - Provisions of this Act which attach a penalty or deprivation of
7 rights to acts or omissions which were not so penalized by the former laws, are not applicable to
8 those who, when said laws were in force, may have executed the act or incurred the omission
9 forbidden or condemned by this Act.

10 However, if a continuing repeated act or omission shall have commenced before the date
11 this Act comes into effect and the same subsists, is maintained or repeated after the applicable
12 provisions of this Act have become operative, the sanction or penalty prescribed in this Act shall
13 be applied, even though the previous laws may not have provided any sanction or penalty
14 therefor.

15
16 **Art. 151. Repealing Clause.** - All laws, presidential decrees, issuances, executive orders,
17 rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby
18 repealed or modified accordingly. Subject to the provisions of Article 147, any substantive rights
19 or liabilities existing under such laws or parts thereof prior to the effective date of this Act shall
20 not be affected by this repeal and this Act shall not be effective to authorize the trial or
21 punishment for any crime or offense barred by the provisions of existing law.

22
23 **Art. 152. Appropriation of Funds.** - For the purpose of this Act, an initial amount of
24 fifty million pesos or so much thereof as may be necessary is hereby appropriated out of any
25 funds in the National Treasury not otherwise appropriated to cover the salaries of the Presiding
26 Justice and five Associate Justices, the clerk of court and deputy clerks of court, other officers
27 and employees, and other expenses of the Court of Military Appeals, and thereafter, the aforesaid
28 amount or so much thereof as may be necessary will be included in the annual General
29 Appropriations Act.

30
31 **Art. 153. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in
32 two (2) newspapers of general circulation or the Official Gazette. The publication shall be made
33 not later than thirty (30) days after the approval thereof.

34
35 *Approved,*