

15 MAY 19 P3:00

SENATE  
S. No. 2773

RECEIVED BY: J'

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Introduced by Senator Miriam Defensor Santiago

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AN ACT  
TO FURTHER STRENGTHEN THE OFFICE OF THE SOLICITOR GENERAL,  
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9417

EXPLANATORY NOTE

The Office of the Solicitor General (OSG) is the biggest and busiest law office in the country. Under the Administrative Code of 1987, the OSG is mandated, among others, to:

(1) represent the government in the Supreme Court (SC) and the Court of Appeals (CA) in all criminal proceedings;

(2) represent the government and its officers in the SC, CA, and all other courts or and tribunals in all civil actions ad special proceedings in which the government or any officer in his or her official capacity is a party;

(3) investigate, initiate court action, or in any manner proceed against any person, corporation, or firm for the enforcement of any contract, bond, guarantee, mortgage, pledge, or other collateral executed in favor of the government;

(4) appear in any court in any action involving the validity of any treaty, law, executive order or proclamation, rule, or regulation;

(5) appear in all proceedings involving the acquisition or loss of Philippine citizenship;

(6) represent the government in all land registration and related proceedings;

(7) prepare, upon request of the President or other proper government officer, rules and guidelines for government entities on the preparation of contracts, making of investments, undertaking of transactions, and drafting of forms or other documents for official use;

(8) represent, upon instructions of the President, the Republic of the Philippines in international litigations, negotiations, or conferences where the legal position of the Republic must be defended or presented; and

(9) act and represent the Republic and/or the people before any court, tribunal, body, or commission in any matter, action or proceeding which affects the welfare of the people as the ends of justice may require.<sup>1</sup>

Additional powers and functions of the OSG is provided for under Republic Act No. 9372 or the Human Security Act; R.A. No. 9167 or the Film Development Council of the Philippines Law; R.A. No. 9160 or the Anti-Money Laundering Act of 2001; R.A. No. 9139 or the Administrative Naturalization Law of 2000; the National Internal Revenue Code; R.A. No. 9520 or the Philippines Cooperative Code of 2008; Executive Order No. 14, Series of 1986; and Presidential Decree No. 679.

Further, the Rules of Court and other SC issuances provide for the appearance of the OSG, on behalf of the government, in various cases. From time to time, the President also assigns more tasks on the OSG through executive issuances, such as Memorandum Circular No. 96 (1994) on the prosecution of claims against the Republic of Iraq arising from the Gulf War; and Memorandum Circular No. 153 (1997) on the prosecution of claims against the United States Crude Oil Overcharge Funds.

Given the formidable and sensitive legal duties of the OSG, there is a need to strengthen the institution and provide its lawyers and employees benefits and privileges already being enjoyed by their counterparts in other government offices. This will ensure that the OSG is able to faithfully, effectively, and efficiently perform its mandate to uphold State interest. Towards this end, Congress must amend the present OSG law, R.A. No. 9417.

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<sup>1</sup> Administrative Code of 1987, Book 4, Title 3, Chapter 12, Section 35.

For instance, this bill expands each legal division in the OSG from ten lawyers, which is provided for under R.A. No. 9417, to 12 lawyers. This will result to additional 60 plantilla positions for lawyers. The present complement of lawyers is not enough to meet the increasing number of cases involving the Republic. To illustrate, each solicitor handles an average of 700 active cases, a large number of which involve special proceedings, annulment of marriage, land titles, taxation, and criminal cases. Hence, the present lawyers are overworked, overburdened, and are decreasing in number as some lawyers resign from the OSG to work in the private sector or transfer to other government agencies. The additional 60 lawyers will help ease the work of the present lawyers, and ultimately hasten the disposition of the cases being handled by the OSG.

Further, this bill upgrades the qualifications for appointment, rank, category, prerogatives, salaries, allowances, emoluments, benefits, and privileges of the Solicitor General to that of an Associate Justice of the SC. While this provision does not change the Solicitor General's present salary grade of 31, it serves to enhance the prestige and honor of the position.

While R.A. No. 9417 already provides that Senior State Solicitors and State Solicitors of the OSG shall have the same rank, salaries, and privileges of trial court judges, the benefits provided for under R.A. No. 9946, such as additional retirement, survivorship, and other benefits, are reserved for members of the judiciary only. Ironically, the counterparts of senior OSG lawyers in the National Prosecution Service (NPS) and the Public Attorney's Office (PAO) already enjoy these benefits which are not available to senior OSG lawyers. There is a need to equalize the benefits and privileges received by OSG lawyers with that of their counterparts in the judiciary, the NPS, and the PAO. At present, the OSG serves as a training ground for lawyers, as they go on to higher paying positions in the private sector or in other government offices. The government must provide incentives for lawyers to apply to and stay in the OSG, and reward those who choose to climb up the ranks and give the best years of their working life to the OSG.

More important, given the complexity or national importance of the cases they handle, OSG lawyers face hazards to life and limb. The brutal killing of Assistant Solicitor General

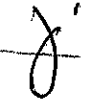
Nestor J. Ballacillo, a Civil Service Dangal ng Bayan awardee, and his son Benedict is proof of this.

The amendments on survivorship, authority to borrow, and increase of the OSG's share in monetary awards or assets given by courts to client departments and assets awarded to the government in forfeiture proceedings will further strengthen the OSG by increasing its source of income to carry out the expansion and pay the mandated benefits under R.A. No. 9417. Finally, the provision on retroactivity of the law will clarify the ambiguities in R.A. No. 9417 on the entitlement of OSG lawyers who have judicial ranks to the retirement benefits under related laws.

  
MIRIAM DEFENSOR SANTIAGO  
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SENATE  
S. No. 2773

RECEIVED BY: 

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Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT  
2 TO FURTHER STRENGTHEN THE OFFICE OF THE SOLICITOR GENERAL,  
3 AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9417

4 SECTION 1. Section 2 of Republic Act No. 9417 is hereby amended to read as follows:

5 SEC. 2. *Expansion.* – The staff of the Office of the Solicitor General shall  
6 be increased and their positions upgraded. From fifteen (15) legal divisions, there  
7 shall be at least thirty (30) legal divisions in the Office of the Solicitor General,  
8 with a corresponding increase in the general and administrative support personnel  
9 and provision for ample office space. Each division, permanently headed by an  
10 Assistant Solicitor General, shall consist of [~~ten (10)~~] **TWELVE (12)** lawyers and  
11 such other personnel as may be necessary for the office to effectively carry out its  
12 functions.

13 The present administrative structure of the Office of the Solicitor General  
14 shall be recognized into the Financial Management Service, Docket and Case  
15 Management Services, and the Human Resources Management Service. Each of  
16 these shall be composed of the necessary divisions and sections.

17 The legal and non-legal staff of the Office of the Solicitor General  
18 occupying the positions affected by the changes embodied in this Act at the time  
19 of its approval shall thereafter occupy the positions mandated by this Act, and

1 discharge the duties and functions of their new positions and receive the  
2 corresponding salary and benefits without the necessity of any new appointment.”

3 SECTION 2. Section 3 of Republic Act No. 9417 is hereby amended to read as follows:

4 SEC. 3. *Standards.* - The Solicitor General shall have a cabinet rank and  
5 the same qualifications for appointment, rank, **CATEGORY**, prerogatives,  
6 salaries, allowances, [benefits] **EMOLUMENTS**, [and] privileges, **AND**  
7 **RETIREMENT AND ALL OTHER BENEFITS** of [a Presiding Justice of the  
8 Court of Appeals] **AN ASSOCIATE JUSTICE OF THE SUPREME COURT**;  
9 an Assistant Solicitor General, those of an Associate Justice of the Court of  
10 Appeals.

11 The qualifications for appointment, rank, **CATEGORY**, prerogatives,  
12 salaries, **ALLOWANCES**, **EMOLUMENTS**, [benefits] privileges, **AND**  
13 **RETIREMENT AND ALL OTHER BENEFITS** of Solicitors shall be the same  
14 as judges, specified as follows:

15 Senior State Solicitor - Regional Trial Court Judge

16 State Solicitor II - Metropolitan Trial Court Judge

17 State Solicitor I - Municipal Trial Court in Cities Judge

18 The Solicitor General shall determine the qualifications, prerogatives and  
19 responsibilities of the Associate Solicitors.

20 SECTION 3. Section 5 of Republic Act No. 9417 is hereby amended to read as follows:

21 SEC. 5. *Benefits and Privileges.* - Subject to the availability of funds, the  
22 Office of the Solicitor General may provide its employees with the following:

23 (1) Health care service through a health maintenance  
24 organization (HMO). Expenses for the mandatory annual executive  
25 check-up of the Solicitor General, the Assistant Solicitors General,  
26 **SENIOR STATE SOLICITORS, STATE SOLICITORS** and  
27 the Service Heads, shall be for the account of the office;

1 (2) All employees shall be covered by accident insurance  
2 policies procured by the office at its own expense during travels  
3 while in the performance of their official duties and functions;

4 (3) Without prejudice to efficiency in the service,  
5 scholarship to deserving employees on official time and at the  
6 expense of the Office of the Solicitor General to enhance their  
7 academic growth and upgrade their knowledge and skills. Scholars  
8 under this provision shall be selected on the basis of competitive  
9 examination;

10 (4) A provident fund which shall consist of contributions  
11 made both by the Office of the Solicitor General and by its lawyers  
12 and employees to a common fund for the payment of benefits to  
13 such lawyers or employees or their heirs; and

14 (5) **OTHER PERQUISITES AND BENEFITS AS**  
15 **MAY BE DETERMINED BY THE SOLICITOR GENERAL**  
16 **IN THE EXIGENCIES OF THE SERVICE.**

17 SECTION 4. Section 10 of Republic Act No. 9417 is hereby deleted and replaced by a  
18 new Section 10 to read as follows:

19 SEC. 10. [*Grant of Special Allowances.* – The Solicitor General, Assistant  
20 Solicitor General, Senior State Solicitor, State Solicitors I and Associate Solicitors  
21 I to III shall be granted special allowances in amounts to be determined by the  
22 Secretary of the Department of Budget and Management and the Solicitor  
23 General. The grant of special allowances shall be implemented uniformly in such  
24 sums and amounts and up to the extent only that can be supported by the funding  
25 source specified in Section 11 hereof: *Provided,* That the said special allowance  
26 shall not exceed One hundred percent (100%) of the basic salary of solicitors as  
27 provided in Republic Act No. 6758, otherwise known as the Salary

1 Standardization Law.] *SURVIVORSHIP BENEFITS.* - UPON DEATH OF A  
2 SOLICITOR GENERAL, ASSISTANT SOLICITOR GENERAL, SENIOR  
3 STATE SOLICITOR OR STATE SOLICITOR OF THE OSG, IF SAID  
4 OSG OFFICIAL HAD RETIRED OR WAS IN THE SERVICE AT THE  
5 TIME OF DEATH, THE SURVIVING LEGITIMATE SPOUSE OR  
6 DEPENDENT CHILDREN OF SAID OSG OFFICIAL SHALL BE  
7 ENTITLED TO RECEIVE ON A MONTHLY BASIS ALL THE  
8 RETIREMENT BENEFITS THAT THE DECEASED OSG OFFICIAL  
9 WAS RECEIVING OR ENTITLED TO RECEIVE AT THE TIME OF  
10 DEATH UNDER THE PROVISIONS OF THE APPLICABLE  
11 RETIREMENT LAWS THEN IN FORCE. A 'DEPENDENT' MEANS A  
12 LEGITIMATE, ILLEGITIMATE OR LEGALLY ADOPTED CHILD  
13 WHO IS CHIEFLY DEPENDENT ON THE ABOVE-ENUMERATED  
14 DECEASED OSG OFFICIALS, IF SUCH DEPENDENT IS NOT MORE  
15 THAN TWENTY-ONE (21) YEARS OF AGE, UNMARRIED AND NOT  
16 GAINFULLY EMPLOYED, OR IF SUCH DEPENDENT, REGARDLESS  
17 OF AGE, IS INCAPABLE OF SELF-SUPPORT BECAUSE OF MENTAL  
18 OR PHYSICAL DEFECT. THE SURVIVING LEGITIMATE SPOUSE OR  
19 DEPENDENT CHILD SHALL CONTINUE TO RECEIVE SUCH  
20 RETIREMENT BENEFITS DURING HIS OR HER LIFETIME OR UNTIL  
21 SAID SURVIVING LEGITIMATE SPOUSE REMARRIES OR THE  
22 DEPENDENT CHILD MARRIES: *PROVIDED*, THAT IF THE  
23 SURVIVING LEGITIMATE SPOUSE IS RECEIVING BENEFITS UNDER  
24 EXISTING RETIREMENT LAWS, THE SURVIVING LEGITIMATE  
25 SPOUSE OR DEPENDENT CHILD SHALL ONLY BE ENTITLED TO  
26 THE DIFFERENCE BETWEEN THE AMOUNT PROVIDED FOR IN  
27 THIS ACT AND THE BENEFITS HE OR SHE IS RECEIVING:  
28 *PROVIDED FURTHER*, THAT SAID BENEFITS SHALL BE GRANTED



1 TO ALL AFOREMENTIONED MEMBERS OF THE OFFICE OF THE  
2 SOLICITOR GENERAL WHO DIED OR RETIRED PRIOR TO THE  
3 EFFECTIVITY OF THIS ACT: *PROVIDED FINALLY*, THAT THE  
4 SURVIVING LEGITIMATE SPOUSE OR DEPENDENT CHILD  
5 RECEIVING THE BENEFITS SHALL NOT APPEAR AS COUNSEL  
6 BEFORE ANY COURT IN ANY CIVIL CASE WHEREIN THE  
7 GOVERNMENT OR ANY SUBDIVISION OR INSTRUMENTALITY  
8 THEREOF IS THE ADVERSE PARTY, OR IN ANY CRIMINAL CASE  
9 WHEREIN AN INCUMBENT OR FORMER OFFICER OR EMPLOYEE  
10 OF THE GOVERNMENT IS ACCUSED OF AN OFFENSE COMMITTED  
11 IN RELATION TO HIS OR HER OFFICE, OR COLLECT ANY FEE FOR  
12 HIS OR HER APPEARANCE IN ANY ADMINISTRATIVE  
13 PROCEEDING; AND WHEN THE SURVIVING LEGITIMATE SPOUSE  
14 OR DEPENDENT CHILD SHALL ASSUME AN ELECTIVE PUBLIC  
15 OFFICE, HE OR SHE SHALL NOT, UPON ASSUMPTION OF OFFICE  
16 AND DURING HIS OR HER TERM, RECEIVE THE SAID BENEFITS.

17 SECTION 5. Section 11 of Republic Act No. 9417 is hereby amended to read as follows:

18 SEC. 11. *Funding.* – The funds required for the implementation of this  
19 Act, including those for health care services, insurance premiums, professional,  
20 educational, registration fees, contracted transportation benefits, and other  
21 benefits above, shall be taken from:

- 22 (i) [Five percent (5%)] **TWENTY PERCENT (20%)** of  
23 monetary awards **OR ASSETS** given by the Court to client  
24 departments, agencies and instrumentalities of the  
25 Government, including those under court-approved  
26 compromise agreements **AND TWENTY PERCENT**

1                   **(20%) OF ASSETS AWARDED TO THE**  
2                   **GOVERNMENT IN FORFEITURE PROCEEDINGS;**

- 3                   (ii) fifty percent (50%) of fees collected by the Special  
4                   Committee on Naturalization; and  
5                   (iii) all other income, fees and revenues earned and collected by  
6                   the Office of the Solicitor General.

7                   For this purpose, the Office of the Solicitor General is hereby authorized  
8                   to charge deputation, certification and other similar fees in the cases that it  
9                   handles.

10                  The amounts collected pursuant to this section shall constitute a trust fund  
11                  in the name of the Office of the Solicitor General to be managed and used by the  
12                  Solicitor General to carry out the provisions of this Act.

13                  **THE OFFICE OF THE SOLICITOR GENERAL IS LIKEWISE,**  
14                  **AUTHORIZED TO BORROW FUNDS AND DISPOSE OF ITS ASSETS**  
15                  **TO CARRY OUT THE PROVISIONS OF THIS ACT.”**

16                  SECTION 6. *Appropriations.* - The amount needed for the initial implementation of this  
17                  Act shall be taken from the regular appropriations of the Office of the Solicitor General under  
18                  the annual General Appropriations Act.

19                  SECTION 7. *Rules and Regulations.* - The Solicitor General, in consultation with the  
20                  Secretary of Budget and Management, shall promulgate the necessary rules and regulations for  
21                  the effective implementation of the provisions of this Act.

22                  SECTION 8. *Retroactivity.* - The retirement benefits provided for in Section 2 of this Act  
23                  shall have retroactive effect as of the date of effectivity of Republic Act No. 9417.

1           SECTION 9. *Separability Clause.* – If any provision of this Act is declared  
2 unconstitutional or invalid, other parts or provisions which are not affected shall continue in full  
3 force and effect.

4           SECTION 10. *Repealing Clause.* – All laws, executive orders, presidential decrees,  
5 rules, and regulations, or any parts thereof, which are inconsistent with this Act are hereby  
6 amended, modified, or repealed accordingly.

7           SECTION 11. *Effectivity.* – This Act shall take effect fifteen (15) days following its  
8 publication in a newspaper of general circulation.

Approved,