



SENATE

S. No. 1698

PREPARED BY THE COMMITTEES ON LABOR, EMPLOYMENT
AND HUMAN RESOURCES DEVELOPMENT; NATIONAL DEFENSE
AND SECURITY; AND FINANCE WITH SENATORS AQUINO
IV, VILLANUEVA, HONASAN II, AND LEGARDA AS
AUTHORS THEREOF

AN ACT STRENGTHENING THE EMPLOYMENT RIGHTS
OF MEMBERS OF THE CITIZEN ARMED FORCES
OR THE RESERVE FORCE OF THE ARMED
FORCES OF THE PHILIPPINES AND FOR OTHER
PURPOSES

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

1 CHAPTER 1

2 GENERAL PROVISIONS

3 SECTION 1. *Short Title.* – This Act shall be known as
4 the “Reservist Employment Rights Act”.

5 SEC. 2. *Declaration of Policy.* – It is hereby declared
6 the policy of the State to:

1 (a) Strengthen the Citizen Armed Forces or the
2 Reserve Force of the Armed Forces of the Philippines
3 (AFP) and recognize its role in the mission areas of the
4 AFP and in national security;

5 (b) Protect the rights of reservists, and prevent and
6 prohibit discrimination on the basis of rendering military
7 service to the State;

8 (c) Encourage service in the Reserve Force of the AFP
9 by eliminating or minimizing the disadvantages to civilian
10 careers and employment which can result from rendering
11 military service to the State; and

12 (d) Ensure the observance of all employers of the
13 rights of reservists called to perform military service to the
14 State.

15 The prime duty of the State is to serve and protect
16 the people. For this reason, the State may call upon the
17 people to defend the State, and in fulfillment thereof, may
18 require its citizens to render military or civil service under
19 conditions provided by law.

1 SEC. 3. *Coverage.* – The provisions of this Act shall
2 apply to all employers, whether private or public,
3 including all government agencies and political
4 subdivisions as well as government-owned and/or
5 -controlled corporations and their subsidiaries,
6 nongovernment organizations, and other socioeconomic
7 entities.

8 SEC. 4. *Definition of Terms.* – As used in this Act, the
9 following terms shall mean:

10 (a) Active Duty Training – the compulsory or
11 voluntary trainings for reserve units and/or individual
12 reservists provided by the AFP to update their working
13 knowledge in the current military organization, doctrines,
14 tactics, techniques and procedures or TTPs, in order to
15 maintain a desirable state of readiness, enable them to
16 satisfy the active service-in-grade required for promotion to
17 higher grades, and maintain a level of proficiency and
18 competency for those reservists designated as instructors
19 in Reserve Officers' Training Corps (ROTC) and other
20 reservists training programs;

1 (b) Auxiliary Service – the voluntary performance of a
2 service by a reservist for the purpose of helping maintain
3 local peace and order, meeting local insurgency and terror
4 threats for intelligence requirements, assisting in rescue
5 and relief operations during disasters and calamities,
6 health welfare activities and participating in local
7 socioeconomic development projects;

8 (c) Citizen Soldier or Reservist – members of the
9 Reserve Force of the AFP composed of the following:

10 (1) Graduates of the ROTC basic and advance courses
11 and who were issued orders as enlisted reservists or
12 reserve officers of the AFP;

13 (2) Graduates of authorized basic military training
14 instructions who, as a result thereof, were issued orders as
15 enlisted reservists or reserve officers;

16 (3) Ex-servicemen and retired officers of the AFP who
17 have been incorporated into the Reserve Force of the AFP;
18 and

1 (4) Reservist officers and enlisted reservists including
2 those procured under existing laws and included in the
3 present AFP roster.

4 There shall be three (3) categories of citizen soldiers
5 or AFP reservists: the First Category Reserve, the Second
6 Category Reserve, and the Third Category Reserve
7 based on age.

8 First Category Reserve – The First Category Reserve
9 shall be composed of able-bodied reservist whose ages are
10 between eighteen (18) years and thirty-five (35) years,
11 inclusive.

12 Second Category Reserve – The Second Category
13 Reserve shall be composed of able-bodied reservist whose
14 ages are between thirty-six (36) years and fifty-one (51)
15 years, inclusive.

16 Third Category Reserve – The Third Category
17 Reserve shall be composed of able-bodied reservist who are
18 above fifty-one years (51) of age.

19 Based on the categorization above, the Reserve Force
20 units shall further be classified into the Ready Reserve, the

1 Standby Reserve, and the Retired Reserve based on their
2 operational readiness for immediate deployment/
3 utilization;

4 (d) Employment – the act of hiring, and continued
5 engagement including the reintegration of an employee
6 called to military service to his or her former position, or if
7 not practicable to a substantially equivalent position,
8 without loss of seniority rights and diminution of pay;

9 (e) Military Service – any service rendered by a
10 citizen soldier or reservist to the State upon orders of the
11 AFP or call to active duty (CAD) to meet active duty
12 training (ADT) requirements, or for any purpose that the
13 AFP leadership may deem necessary in order to augment
14 and support the Regular Force operations in times of war,
15 national emergency or such other times as the national
16 security requires;

17 (f) Mobilization – the utilization of the Reserve Force
18 of the AFP in times of emergency to meet threats to
19 national security;

1 (g) Reintegration – the actual resumption of work of
2 an employee after his or her military service to his or her
3 former position, or if not practicable to a substantially
4 equivalent position, without loss of seniority rights and
5 diminution of pay;

6 (h) Reserve Force – those composing of members of
7 the reserve components of the AFP;

8 (i) Ready Reserve – citizen soldiers or reservists belonging
9 mostly to the First Category reserve, who shall be
10 organized, trained and maintained as mobilizable ready
11 reserve subject to being called at any time to augment
12 the regular armed force of the AFP not only in times of
13 war or national emergency but also to meet local
14 emergencies arising from calamities, disasters and
15 threats to peace, order, security and stability in any
16 locality, including the need to provide assistance in
17 relief and rescue work and other civil assistance
18 activities;

19 Furthermore, members of the AFP Affiliated Reserve
20 units of various government and private utilities and

1 services considered essential for the preservation of
2 economic stability of the country or particular locality,
3 such as power and electricity, water supply, transportation
4 and communications, among others, regardless of their
5 categorization shall be classified as Ready Reserve;

6 All citizen soldiers belonging to the First Category
7 Reserve, except those exempted under Republic Act
8 No. 7077, otherwise known as the "Citizen Armed Forces of
9 the Philippines Reservist Act", and other pertinent policies,
10 shall be required to serve with the Ready Reserve units
11 and will have assignments and promotions in accordance
12 with existing policies of the AFP until transferred to the
13 Standby Reserve by virtue of their age;

14 (j) Standby Reserve – citizen soldiers or reservists
15 belonging mostly to the Second Category Reserve and the
16 Third Category Reserve. The members of the Standby
17 Reserve shall be organized and assigned to specific reserve
18 units and shall be maintained through annual assembly
19 test to update their records and present addresses, among
20 others. The Standby Reserve may be mobilized or

1 ordered to active duty only in times of national
2 emergency or war. The ranks of the members of the
3 Standby Reserve may be upgraded if they voluntarily
4 participate in training or serve with the Ready Reserve
5 units in their areas or if their Standby Reserve unit
6 undergo retraining. They will however be encouraged to
7 upgrade their military knowledge and skills by taking
8 up nonresident or resident courses which shall be
9 set up for the purpose; and

10 (k) Retired Reserve – citizen soldiers who have
11 qualified for retirement through length of service, old age
12 or disability. For this purpose, sixty-five (65) years shall be
13 considered as the retirement age. However, if qualified and
14 fit for duty, a member of the Retired Reserve may be
15 ordered to active duty in times of local or national
16 emergencies if he/she volunteers for active duty and when
17 the Secretary of National Defense determines that there
18 are not enough qualified citizen soldiers with his/her
19 special skills and qualifications in the Ready Reserve or
20 Standby Reserve in his/her particular area of residence.

CHAPTER 2

NON-DISCRIMINATION OF RESERVISTS

SEC. 5. Anti-Reservists Discrimination. –

(a) It shall be unlawful for an employer, or those acting in the interest of the employer, whether private or public, including all government agencies and political subdivisions, as well as government-owned and/or -controlled corporations and their subsidiaries, nongovernment organizations, and other socioeconomic entities to:

(1) Discriminate against an individual in terms of compensation, terms and conditions, or privileges of employment on account of such individual's membership, application for membership, performance of military service, application for military service or obligation with the Reserve Force of the AFP;

(2) Print or publish, or cause to be printed or published, in any form of media, including the internet, any notice of advertisement relating to employment suggesting preferences, limitations, specifications, and

1 discrimination based on membership, application for
2 membership, performance of military service, application
3 for military service or obligation with the Reserve Force
4 of the AFP;

5 (3) Require the declaration of application for
6 membership, or status of membership in the Reserve Force
7 of the AFP;

8 (4) Decline employment on the basis of membership
9 in the Reserve Force of the AFP;

10 (5) Deny any employee's or worker's promotion or
11 opportunity for training on the basis of membership,
12 application for membership, performance of military
13 service, application for military service or obligation with
14 the Reserve Force of the AFP;

15 (6) Lay off an employee or worker because of
16 membership, application for membership, performance of
17 military service, application for military service or
18 obligation with the Reserve Force of the AFP; or

19 (7) Impose early retirement on the basis of such
20 employee's or worker's membership, application for

1 membership, performance of military service, application
2 for military service or obligation with the Reserve Force of
3 the AFP.

4 (b) It shall be unlawful for a labor contractor or
5 subcontractor, if any, to refuse to refer for employment or
6 otherwise discriminate against any individual because of
7 such person's membership, application for membership,
8 performance of military service, application for military
9 service or obligation with the Reserve Force of the AFP.

10 (c) It shall be unlawful for any organization to:

11 (1) Deny membership to any individual because of
12 such person's membership, application for membership,
13 performance of military service, application for military
14 service or obligation with the Reserve Force of the AFP;

15 (2) Exclude from its membership any individual
16 because of such person's membership, application for
17 membership, performance of military service, application
18 for military service or obligation with the Reserve Force of
19 the AFP; or

1 (3) Cause or attempt to cause an employer to
2 discriminate against an individual in violation of this Act.

3 (d) It shall be unlawful for a publisher to print or
4 publish any notice of advertisement relating to employment
5 suggesting preferences, limitations, specifications, and
6 discrimination based on a person's membership, application
7 for membership, performance of military service, application
8 for military service or obligation with the Reserve Force of
9 the AFP.

10 CHAPTER 3

11 EMPLOYMENT RIGHTS

12 SEC. 6. *Employment Rights of Citizen Soldiers/*
13 *Reservist.* – The following are the rights of reservists who
14 perform military service in the Reserve Force of the AFP:

15 (a) Reservists who perform military service are
16 entitled to their original position, or when not practicable
17 to a substantially equivalent position, without loss of
18 seniority rights and diminution of their pay;

19 (b) Military service shall not be considered a break in
20 the employment for retirement purposes or for granting

1 benefits provided for under the Labor Code and other
2 special laws;

3 (c) Reservists cannot be required to use earned or
4 entitled vacation or service incentive leaves for leave of
5 absence in connection with the performance of military
6 service in the Reserve Force; and

7 (d) Reservists who suffer any temporary or permanent
8 disability due to military service shall not be denied
9 reintegration if such employee can still perform the
10 essential functions of their original employment, whether
11 with or without reasonable accommodations.

12 SEC. 7. *Hiring of Substitute Employee.* – An employer
13 whose reservist employee is called to military service may
14 hire another employee as substitute during the period of
15 the military service of the reservist employee.

16 The employment of the substitute employee shall be
17 deemed terminated upon the reintegration of the reservist
18 employee. The employer, or those acting in the interest of
19 the employer may, however, consider the substitute
20 employee for another position, if practicable.

1 SEC. 8. *Reintegration Duty of an Employer.* – It shall
2 be the duty of the employer, or those acting in the interest
3 of the employer, to reintegrate reservists returning from
4 military service to their former position, or when not
5 practicable to a substantially equivalent position, without
6 loss of seniority rights and diminution of their pay.

7 SEC. 9. *Conditions for Reintegration of Reservists.* –
8 Reservists shall be entitled to reintegration as provided in
9 Section 8 of this Act, subject to the following conditions:

10 (a) The reservist has rendered or performed military
11 service as a member of the Reserve Force of the AFP;

12 (b) The employer, or those acting in the interest of the
13 employer, has been given a written notice by the AFP or
14 the reservist, which if practicable shall indicate the
15 duration of military service, at least thirty (30) days prior
16 to departing for military service unless precluded by
17 military necessity, or under all of the relevant circumstances,
18 the timely provision of notice is otherwise impossible or
19 unreasonable;

1 (c) The employer, or those acting in the interest of the
2 employer, shall immediately reintegrate the reservist after
3 he or she is officially discharged from military service in
4 accordance with the notice issued by the AFP; and

5 (d) The employer, or those acting in the interest of the
6 employer, shall provide its reservist employee the
7 prevailing salary or wage at the time of reintegration of the
8 reservist.

9 The AFP shall issue and provide the pertinent notices
10 and documents to reservists and their employers, and
11 those acting in the interest of the employers, in a timely
12 manner to facilitate the reintegration of the reservists to
13 their employment.

14 SEC. 10. *Period to Notify of Intent to Return.* –
15 Reservists are hereby required to notify their employers, or
16 those acting in the interest of the employer, of their intent
17 to return to work subject to the following circumstances
18 and conditions:

19 (a) In the case of reservists called to military service
20 for a definite period when indicated in the call for active

1 duty training or such other notice issued by the AFP, the
2 employer, or those acting in the interest of the employer,
3 shall be deemed notified of the intent to return when
4 furnished a copy of the pertinent notice from the AFP prior
5 to the absence of the reservist for military service;

6 (b) In the case of reservists called to military service
7 for an indefinite period when not indicated in the call for
8 active duty training or such other notices issued by the
9 AFP, the employer, or those acting in the interest of the
10 employer, shall be deemed notified of the intent to
11 return when furnished a copy of the pertinent notice
12 from the AFP indicating the impending discharge of
13 reservists at least fifteen (15) days prior to the end of
14 the military service: *Provided*, That the reservists shall
15 not be deemed ineligible when circumstances do not permit
16 the timely prior notification of absence due to military
17 service and/or intent to return of a reservist in compliance
18 with this provision in accordance with Sections 9(b) and
19 9(d) of this Act: *Provided, further*, That reservists who
20 suffer from illness or injury incurred in, or aggravated

1 during, the performance of military service shall be
2 allowed to indicate their desire to return to their former
3 position within a reasonable time as prescribed by a
4 military doctor: *Provided, finally,* That the AFP shall
5 ensure that its policies and administrative processes,
6 whenever practicable, allow for at least fifteen (15) days
7 prior notification of employers, or those acting in their
8 interest, of the absence of reservists for military service
9 and their capacity and intent to return to their
10 employment.

11 SEC. 11. *Compensation for Non-Reintegration of Reservists.*

12 – In cases of authorized causes or circumstances, subject to
13 the determination and approval of Department of Labor
14 and Employment (DOLE), where reintegration is impossible
15 or unreasonable, the reservist shall be entitled to at
16 least three (3) months' worth of his or her basic salary or
17 to a separation pay equivalent to his or her one-month
18 basic salary per year of service, whichever is higher.

19 SEC. 12. *Compensation of Reservists for Military*

20 *Service.* – In order to enhance the general welfare,

1 commitment to service and professionalism of the members
2 of the Reserve Force of the AFP, the reservist rendering
3 military service shall be entitled to the base pay
4 commensurate to their rank consistent with their
5 counterpart in the regular force.

6 The mother agency of the reservist shall promptly
7 pay and remit the reservist employees' premium
8 contributions, based on his or her salary, during their
9 absence due to military service, whether to the
10 Government Service Insurance System (GSIS), the
11 Pagtutulungan sa Kinabukasan: Ikaw, Bangko, Industriya,
12 at Gobyerno (PAG-IBIG), Philippine Health Insurance
13 Corporation (PhilHealth), and all pertinent contributions
14 related to his or her employment, and shall not reflect any
15 gap in contributions in the records.

16 Reservists shall have the option to pay their Social
17 Security System (SSS) contributions as a voluntary paying
18 SSS member to avoid any gap in their contribution records
19 and afford their full entitlement to SSS benefits in
20 accordance with existing guidelines.

1 The AFP shall establish the necessary administrative
2 process to assist reservists in the timely remittance of
3 pertinent contributions, whether mandatory or voluntary.

4 SEC. 13. *Multi-stakeholder Engagements and Advocacies.*

5 – The Department of National Defense (DND) and AFP
6 shall strengthen coordination and cooperation among
7 stakeholders through a sustained and comprehensive
8 advocacy campaign for the purpose of ensuring that the
9 employment rights of reservists are understood and
10 protected by all concerned.

11 For this purpose, the Department of Budget and
12 Management (DBM), in consultation with the DND and the
13 AFP, shall create the necessary plantilla or non-tenured
14 positions. The necessary funds for the implementation of this
15 provision shall be included in the budget of the DND
16 and AFP in the annual General Appropriations Act.

17 SEC. 14. *Tax Benefits and Incentives.* – The
18 Department of Finance (DOF), in coordination with the
19 DND, AFP, and other appropriate government agencies,
20 shall develop the appropriate rules and regulations on the

1 provision of tax benefits and incentives based on justified
2 costs and expenses by employers associated with
3 organizational adjustments borne out of the absence of
4 reservists in an organization in compliance with this
5 Act, Republic Act No. 7077, and other appropriate laws,
6 rules, and regulations.

7 SEC. 15. *Administrative Fines and Penalties.* –
8 Violation of any of the provision of this Act shall be
9 punished with a fine of not less than Fifty thousand pesos
10 (P50,000.00) but not more than One million pesos
11 (P1,000,000.00), or imprisonment of not less than three (3)
12 months but not more than two (2) years, or both, at the
13 discretion of the court. If the offense is committed by a
14 corporation, trust, firm, partnership or association or other
15 entity, the penalty shall be imposed upon the responsible
16 officer or officers of such corporation, trust, firm,
17 partnership or association or entity.

18 SEC. 16. *Military Duty Leave.* – Every reservist shall
19 be entitled to a leave of seven (7) days with pay per year
20 for the purposes of military training or military activities.

1 This shall be on top of applicable leaves entitled to a
2 reservist from his or her employer.

3 CHAPTER 4

4 FINAL PROVISIONS

5 SEC. 17. *Appropriations.* – The amount necessary for
6 the immediate and effective implementation of this Act
7 shall be charged against any available funds of the DND
8 and the AFP. Thereafter, such sums as may be necessary
9 for the implementation of this Act shall be included in the
10 annual appropriations of the AFP.

11 SEC. 18. *Implementing Rules and Regulations.* – Within
12 sixty (60) days from the effectivity of this Act, the DOLE in
13 coordination with the DND, the AFP, the Civil Service
14 Commission (CSC) and appropriate government agencies
15 shall promulgate the rules and regulations for the effective
16 implementation of this Act.

17 SEC. 19. *Separability Clause.* – Should any provision
18 herein be declared unconstitutional, the same shall not
19 affect the validity of the other provisions of this Act.

1 SEC. 20. *Repealing Clause.* – All laws, decrees, orders,
2 rules, and regulations or other issuances or parts
3 inconsistent with the provisions of this Act are hereby
4 repealed, amended, or modified accordingly.

5 SEC. 21. *Effectivity Clause.* – This Act shall take effect
6 in fifteen (15) days after publication in the *Official Gazette*
7 or in one (1) newspaper of general circulation in the
8 Philippines.

Approved,