

REPUBLIC OF THE PHILIPPINES  
HOUSE OF REPRESENTATIVES  
Quezon City



EIGHTEENTH CONGRESS  
First Regular Session

House Bill No. 1209

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Introduced by MAGDALO Party-List Representative  
**HON. MANUEL DG. CABOCHAN III**

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**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 this Act is earnestly sought.

  
**MANUEL DG. CABOCHAN III**  
Representative  
Magdalo Para sa Pilipino Party-List

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**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**

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

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

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

- 1           b.        “Accuser” means an officer who signs and swears to the charges, or directs that  
2        charges nominally be signed and sworn to by another, or has an interest other than an official  
3        interest in the prosecution of the accused;
- 4           c.        “Battalion” includes a squadron or equivalent unit of the ground, air or naval  
5        forces;
- 6           d.        “Cadet” includes cadets of the Philippine Military Academy (PMA), aviation  
7        cadets of the Philippine Air Force Flying School, and students of an Officer’s Candidate Training  
8        School of the Armed Forces of the Philippines who are not commissioned officers or soldiers on  
9        active duty, or sent by Philippine Government to foreign service academies;
- 10          e.        “Commanding Officer” refers to commissioned officers only;
- 11          f.        “Company” includes a troop, battery, commissioned vessel, or equivalent unit of  
12        the ground, air or naval forces;
- 13          g.        “Judge Advocate” means any officer commissioned in and of the Judge Advocate  
14        General’s Service;
- 15          h.        “Legal Officer” means any lawyer-officer designated to perform legal duties in a  
16        command relating to the administration of military justice;
- 17          i.        “Member of the Armed Forces of the Philippines” includes an officer, cadet,  
18        soldier, trainee, draftee or candidate soldier and all persons who retired from and in the inactive  
19        service of the Armed Forces of the Philippines;
- 20          j.        “Member of the Philippine Coast Guard” includes an officer, cadet, seaman or  
21        sailor, trainee, draftee or candidate seaman or sailor and all persons who retired from and in the  
22        inactive service of the Philippine Coast Guard;
- 23          k.        “Officer” means a commissioned officer in the Armed Forces of the Philippines  
24        and the Philippine Coast Guard;
- 25          l.        “Soldier” means a person in enlisted grade, trainees, draftees or candidate  
26        soldiers;
- 27          m.        “Superior Officer” means a commissioned officer superior in rank or command;
- 28          n.        “Suspendee” is a convicted military personnel whose execution of sentence is  
29        suspended or held in abeyance;
- 30          o.        “Enemy” shall be construed to include also lawless elements or any person or  
31        group of persons against whom any pacification campaign is directed by the government;
- 32          p.        A “safeguard” signifies a special privilege of protection for persons, household,  
33        or property - all or either - against military marauders or other disorderly parties, granted by a

1 military commander to certain private individuals, to corporations, or to hospitals or other public  
2 institutions, or places;

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

6

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

9 a. All officers and soldiers in the active service of the Armed Forces of the  
10 Philippines, and soldiers awaiting issuance of re-enlistment orders after expiration of their terms  
11 of enlistment; all members of the reserve force from the dates of their call to active duty or  
12 mobilization training and while on such active duty or training; all trainees, draftees or candidate  
13 soldiers undergoing military training or service; all volunteers from the time of their muster or  
14 acceptance into the Armed Forces of the Philippines; and all other persons lawfully called,  
15 drafted or ordered into or for training in, in the Armed Forces of the Philippines, from the dates  
16 they are required by the terms of the call, draft, or obey the same;

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

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

20 d. Prisoners of war in the custody of the Armed Forces of the Philippines;

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

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

27

28 **Art. 4. Jurisdiction to Try Certain Personnel.** –

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

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

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

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

18

19           ***Art. 5. Judge Advocate and Legal Officers. –***

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

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

28

29           **TITLE II – APPREHENSION, ARREST AND CONFINEMENT**

30

31           ***Art. 6. Apprehension. –***

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

33          b.       Any person authorized under regulations governing the Armed Forces of the  
34 Philippines or the Philippine Coast Guard may apprehend persons subject to these articles or to

1 trial thereunder upon personal knowledge that an offense has been committed and that the person  
2 apprehended committed it.

3       c. Any person making an apprehension shall make an immediate report to the  
4 Commanding Officer to whom the apprehending person is responsible. He shall also, within six  
5 (6) hours from the time of the apprehension, make a report to the immediate commander of the  
6 person apprehended, or superior commissioned officer if it is impractical to inform the  
7 immediate commander, without prejudice to the completion of the investigation if the same has  
8 not been completed. Within twelve (12) hours from the time of apprehension, the Commanding  
9 Officer of the apprehending unit shall turnover the apprehended person together with the record  
10 of the investigation to the immediate commander of the person apprehended or superior  
11 commissioned officer.

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

14

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

19

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

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

32

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

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

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

9

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

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

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

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

25

26           *Provided, however,* That whenever an accused has undergone pre-trial restraint for a  
27 period equal to or more than the imposable minimum imprisonment for the offense charged to  
28 which he may be sentenced and his case is not yet terminated, he shall be released immediately  
29 without prejudice to the continuation of the trial hereof or the proceeding on appeal if the same  
30 is under review: *Provided, finally,* that the pre-trial restraint shall in no case exceed ninety (90)  
31 days without formal charges being referred to the Trial Judge Advocate for trial.

32

1           **Art. 10. Confinement with Enemy Prisoner Prohibited.** – No member of the Armed  
2 Forces of the Philippines shall be placed in confinement in immediate association with enemy  
3 prisoners or other foreign nationals.

4           **TITLE III – NON-JUDICIAL PUNISHMENT**

5           **Art. 11. Disciplinary Powers of Commanding Officers.** –

6           A. The commanding officer of any detachment, company, battalion, squadron,  
7 commissioned vessel, or higher command, or such other officers as may be authorized by the  
8 President, may, for minor offenses, impose disciplinary punishments upon persons of his  
9 command without the intervention of a court-martial. A commanding officer exercising court-  
10 martial jurisdiction or an officer of general or flag rank in command may delegate his power  
11 under this article to a principal assistant.

12          B. Any commanding officer may, in addition to or in lieu of admonition, reprimand,  
13 impose one or more of the following disciplinary punishments:

14          (1) Upon Officers of his Command:

- 15           (a) Withholding of privileges for not more than thirty consecutive days;
- 16           (b) Restriction to certain specified limits, with or without suspension from duty, but  
17           for not more than thirty consecutive days;
- 18           (c) Arrest in quarters for not more than fifteen consecutive days;
- 19           (d) Forfeiture of not more than one-half of one month's base pay;
- 20           (e) Detention or withholding of not more than one-half of one-month's base pay per  
21           month for three months;
- 22           (f) Deprivation of liberty on shore not exceeding thirty days for those attached or  
23           embarked in a commissioned vessel of the Philippine Navy or Philippine Coast  
24           Guard;
- 25           (g) If imposed by an officer exercising court-martial jurisdiction or by an officer of  
26           general or flag rank in command:
  - 27           (i) Withholding of privilege for not more than sixty consecutive days;
  - 28           (ii) Restriction to certain specified limits, with or without suspension from  
29           duty, for not more than sixty consecutive days;
  - 30           (iii) Arrest in quarters for not more than thirty consecutive days;
  - 31           (iv) Forfeiture of not more than one-half of one-month's base pay per month  
32           for three months;

- (v) Detention or withholding of not more than one-half of one-month's base pay per month for six months;
  - (vi) Deprivation of liberty on shore not exceeding sixty consecutive days, for those attached to or embarked in a commissioned vessel of the Philippine Navy or the Philippine Coast Guard.

**(2) Upon other personnel of his command:**

- (a) Withholding of privilege for not more than thirty consecutive days;
  - (b) Restriction to certain specified limits, with or without suspension from duty, for not more than thirty consecutive days;
  - (c) Arrest in quarters for not more than fifteen consecutive days;
  - (d) Forfeiture of not more than one-half of one month's base pay;
  - (e) Detention or withholding of not more than one month's base pay per month for three months;
  - (f) With respect to those attached to or embarked in a commissioned vessel of the Philippine Navy or Philippine Coast Guard:
    - (i) Deprivation of liberty on shore not exceeding thirty consecutive days;
    - (ii) Confinement on diminished rations for not more than three consecutive days;
  - (g) Confinement not under guard for not more than fifteen consecutive days;
  - (h) Hard labor without confinement for not more than fifteen consecutive days;
  - (i) Extra duties, including fatigue or other duties, for not more than fifteen consecutive days;
  - (j) Correctional custody for not more than fifteen consecutive days;
  - (k) Reduction to the next inferior pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;
  - (l) If imposed by an officer in the grade of Lieutenant Colonel or Commander:
    - (i) Withholding of privileges for not more than sixty consecutive days;
    - (ii) Restriction to certain specified limits, with or without suspension from duty, for not more than sixty consecutive days;
    - (iii) Arrest in quarters for not more than thirty consecutive days;
    - (iv) Forfeiture of not more than one half of one month's base pay per month for two months;

- (v) Detention or withholding of not more than one month's base pay per month for six months;
- (vi) With respect to those attached to or embarked in a commissioned vessel of the Philippine Navy or Philippine Coast Guard, deprivation of liberty on shore not exceeding sixty consecutive days, or confinement on diminished rations for not more than three consecutive days;
- (vii) Confinement not under guard for not more than thirty consecutive days;
- (viii) Hard labor without confinement for not more than thirty consecutive days;
- (ix) Extra duties, including fatigue or other duties for not more than forty-five consecutive days;
- (x) Correctional custody for not more than thirty consecutive days;
- (xi) Reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades.

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

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

E. The imposition and enforcement of disciplinary punishment under this article for any act or omission shall not be a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial,

1 and when so shown, it shall be considered in determining the measure of punishment to be 35  
2 adjudged in case of a finding of guilty.

3 F. Under such regulations as the President may prescribe, limitations may be placed  
4 on the powers granted by this article with respect to the kind and amount of punishment  
5 authorized and the categories of commanding officers authorized to exercise these powers. Rules  
6 may also be prescribed with respect to the suspension, apportionment, remission, mitigation,  
7 setting aside of the punishments imposed, or the restoration of rights and privileges properly  
8 affected by the punishment imposed, and the form of records to be kept of proceedings under  
9 this article, and what categories of these proceedings shall be in writing.

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

18

19 **TITLE IV – COURT-MARTIAL**

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

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

1  
2       **Art. 14. Who May Convene Court-Martial.** – The President of the Philippines, the Chief  
3 of Staff of the Armed Forces of the Philippines, the Commanders of the Major Services of the  
4 Armed Forces of the Philippines, the Commander of the Philippine Coast Guard, the  
5 commanding officer of Area Commands; commanders of task forces, divisions, separate  
6 brigades or body of troops and their respective equivalents in the Navy or Air Force or the  
7 Philippine Coast Guard, provided they have Staff Judge Advocate; and the Superintendent of the  
8 Philippine Military Academy and commanders of a Contingent of the Armed Forces of the  
9 Philippines serving in a foreign country, may convene a court-martial; but when any such  
10 commanding officer is the accuser or the prosecutor of the person or persons to be tried, the  
11 court shall be convened by competent higher authority.

12  
13       **Art. 15. Who May Serve in Court-Martial.** – The following may serve in a court-  
14 martial:

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

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

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

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

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

32       f.      An accused enlisted person may request orally or in writing prior to the  
33 arraignment that an enlisted person serve in the court which is to try him: *Provided*, That in no  
34 case shall the number of enlisted persons detailed exceed one-third of the total membership of

1 the court: *Provided, further*, That failure of the convening authority to designate an enlisted  
2 person as a member of the court because eligible enlisted members cannot be designated on  
3 account of physical conditions or military exigencies shall not preclude the court from  
4 proceeding with the trial nor shall it affect the validity of the proceedings taken thereon, but the  
5 convening authority shall make a detailed written statement, to be appended to the record, stating  
6 why they could not be designated; *Provided, finally*, That no enlisted person shall act as member  
7 of a court-martial when one of the accused is an officer.

8       **Art. 16. Military Judge of Court-Martial.** – The convening authority shall detail to the  
9 court-martial a member of the bar, hereafter called military judge, who shall be an officer of the  
10 Judge Advocate General's Service or an officer who is a member of the Philippine Bar of some  
11 other branch of service and who is certified to be qualified for duty as a military judge by the  
12 Judge Advocate General. No court-martial shall convene or receive evidence in the absence  
13 of the military judge regularly detailed. The military judge, in addition to his duties as such, shall  
14 perform such other duties as the President may, by regulations prescribe. No person is eligible to  
15 act as a military judge in any case if he is the complainant or a witness for the prosecution or has  
16 acted as investigating officer or counsel in the same case.

17

18       **Art. 17. Detail of Trial Judge Advocate and Defense Counsel.** –  
19       a.      For each court-martial, the authority convening the court shall detail a Trial Judge  
20 Advocate and a defense counsel certified as competent to perform such duties by the Judge  
21 Advocate General; and for each court-martial, one or more assistant Trial Judge Advocates and  
22 one or more assistant defense counsels when necessary.

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

27

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

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

1           b.     The convening authority of a court-martial shall detail at least two bailiffs who  
2 shall attend at the proceedings of the court to maintain, order, to serve warrants, summons and  
3 any other process issued by the court, and to execute orders of the court. It shall also be the duty  
4 of the bailiff to protect the officers of the court and secure the prisoner/accused during the trial.  
5 The order appointing a military court shall include the detail of at least two bailiffs who shall be  
6 selected from the enlisted personnel of the Provost Marshal. In the performance of its duties, the  
7 Provost Marshal shall extend its maximum support particularly in the service of warrants,  
8 summons and any other process and orders issued by the court. The bailiffs shall be under the  
9 direct supervision and control of the court during the trial.

10

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

14

15           **TITLE V – PRE-TRIAL PROCEDURE**

16

17           **Art. 20. *Challenges.*** – Except for the military judge, members of a court-martial may be  
18 challenged by the accused or trial judge advocate for cause stated to the court. However, for  
19 good cause shown, the accused or the trial judge advocate may request in writing the convening  
20 authority for the relief of the military judge.

21

22           **Art. 21. *Compulsory Self-Incrimination Prohibited.*** –

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

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

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

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

4

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

11

12           **Art. 23. Pre-Trial Investigation.** –

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

18           b.     At such investigation, the accused shall be informed of the charges against him  
19     and advised of his constitutional rights. He shall within ten days from receipt of the charge sheet  
20     and all the evidence against him be given full opportunity to present his own evidence or  
21     anything that he may present in his own behalf, either in defense or mitigation. The investigation  
22     officer may examine available witnesses requested by the accused. If the charges are forwarded  
23     after such investigation, they shall be accompanied by a pre-trial investigation report containing  
24     a statement of the substance of the testimony taken on or submitted by both sides.

25           c.     The investigation shall, as far as practicable, be completed within a period of  
26     twenty (20) days, otherwise, the pre-trial investigation officer shall report to the convening  
27     authority the reasons for delay and request extension of the period to complete the pre-trial  
28     investigation: *Provided*, however, That the total period of extension that may be granted shall  
29     not exceed ten (10) days.

30

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

32           a.     Before directing the trial of any charge by a court-martial, the convening  
33     authority shall refer the same to his staff judge advocate or legal officer for consideration and  
34     advise. The convening authority may not refer a specification under a charge to a court-martial

1 for trial unless he has found that the specification alleges an offense under these articles and is  
2 warranted by the evidence indicated in the report of investigation.

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

**Art. 25. Service of Charges.** – The trial judge advocate to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had, and a failure to serve such charges will be ground for a continuance unless the trial to be had on the charges as have been served previously upon the accused. In time of peace, no person may against his objection, be brought to trial before a court-martial within a period of five (5) days subsequent to the service of charges upon him.

## **TITLE VI – TRIAL PROCEDURE**

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

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

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

27           b.     The accused has the right to be represented in his defense before a court-martial  
28 or at an investigation under Article 23 by civilian counsel, or by military counsel of his own  
29 selection if reasonably available, or by the defense counsel duly detailed under Article 17. If the  
30 accused is represented by civilian or military counsel of his own selection, the detailed military  
31 defense counsel and assistant military defense counsel shall act as associate defense counsel and  
32 shall take over the defense of the accused whenever the counsel of choice is not available for any  
33 reason.

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

6           d. An assistant trial judge advocate and assistant defense counsel may, under the  
7 direction of the trial judge advocate and military defense counsel, respectively, and subject to the  
8 requirement of Article 17, perform any duty imposed by law, regulations, or customs of the  
9 service upon the trial judge advocate and defense counsel for the accused, respectively.  
10

11           **Art. 28. *Closed Sessions.*** – Whenever a court-martial shall sit in closed session, the trial  
12 judge advocate and/or the assistant trial judge advocate, shall withdraw; and when their  
13 assistance in referring to the recorded evidence is required, it shall be obtained in open court, and  
14 in the presence of the accused and of his counsel.  
15

16           **Art. 29. *Continuances.*** - A court-martial may, for reasonable cause, grant a continuance  
17 to any party for such time and as often as may appear to be just and proper.  
18

19           **Art. 30. *Challenges.*** – The members of a court-martial may be challenged by the  
20 accused or the trial judge advocate for cause stated to the court. The court shall determine the  
21 relevance and validity of challenges for cause. It may not receive a challenge to more than one  
22 person at a time. Challenges by trial judge advocate shall ordinarily be presented and decided  
23 before those by the accused are offered. No peremptory challenge shall be allowed.  
24

25           **Art. 31. *Oaths.*** – Before performing their respective duties, military judges, members of  
26 courts-martial, trial judge advocate, assistant trial judge advocate, defense counsel, assistant or  
27 associate defense counsel, reporters, and interpreters shall take an oath or affirmation to perform  
28 their duties faithfully. The form of the oath or affirmation, the time and place of the taking  
29 thereof, the manner of recording the same, and whether the oath or affirmation shall be taken for  
30 all cases in which these duties are to be performed or for a particular case, shall be as prescribed  
31 in regulations by the President.  
32

33           **Art. 32. *Period of limitation.*** – Except for desertion, mutiny or for war offenses  
34 punishable under these articles and for murder or rape committed in times of war, no person

1 subject to military law shall be tried or punished by a court martial for any crime or offense  
2 committed more than three (3) years before the charge sheet is referred to the trial judge  
3 advocate for trial: *Provided*, That for desertion in time of peace or for any crime or offense  
4 punishable under Article 139 and 140, the period of limitation upon trial and punishment by  
5 court-martial shall be five (5) years from the time the offense was discovered by the authorities:  
6 *Provided, further*, That the period of any absence of the accused from the jurisdiction of the  
7 Philippines or any period during which by reason of some manifest impediment the accused is  
8 not amenable to military jurisdiction, shall be excluded in computing the aforesaid periods of  
9 limitations: *Provided, also*, That for any crime or offense the trial of which in time of war is  
10 certified to the President by the Secretary of National Defense to be detrimental to the  
11 prosecution of the war or inimical to the national security, the period of limitation prescribed in  
12 this Article for the trial of said crimes and offenses shall be extended to the duration of the war  
13 and one year after the termination of hostilities as proclaimed by the President or by a joint  
14 resolution of the Congress: *Provided, finally*, That this Article shall not have the effect of  
15 authorizing the trial and punishment for any crime or offense barred by the provisions of  
16 existing law.

17

18       **Art. 33. *Former Jeopardy*. –**

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

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

27

28       **Art. 34. *Pleas of the Accused*. –** If an accused after arraignment makes an irregular plea,  
29 or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has  
30 entered the plea of guilty through negligence or through lack of understanding of its meaning  
31 and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and  
32 the court shall proceed as though he had not pleaded not guilty.

33

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

8

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

19

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

1 or the Commandant of the Philippine Coast Guard may prescribe which shall be given to the  
2 witness within a reasonable period of time prior to the hearing and that such amount shall be  
3 paid out of the appropriations of the Armed Forces of the Philippines.

4

5       ***Art. 38. Depositions. –***

6       a.      At any time after charges have been signed as provided in Article 20, any party  
7 may take oral or written depositions unless an authority competent to convene a court-martial for  
8 the trial of those charges forbids it for good cause. If a deposition is to be taken before charges  
9 are referred for trial, such an authority may designate officers to represent the prosecution and  
10 the defense and may authorize those officers to take the deposition of any witness.

11       b.      Depositions to be read in evidence before military boards, or for other use in  
12 military administration, may be taken before and authenticated by any military or civil officer  
13 authorized by the laws of the Philippines or by the laws of the place, where the deposition is  
14 taken to administer oaths.

15       c.      The party at whose instance a deposition is to be taken shall give to every other  
16 party reasonable written notice of the time and place for taking the deposition.

17       A duly authenticated deposition taken upon reasonable notice to the parties, so far as  
18 otherwise admissible under the rules of evidence, may be read in evidence before any military  
19 court, or in any proceeding before a military board, if such deposition be taken where the witness  
20 resides, is found, or is about to go outside of the Philippines, or beyond the distance of one  
21 hundred and fifty (150) kilometers from the place of trial or hearing, and will probably continue  
22 to be absent when the testimony is required; or when it appears to the satisfaction of the court,  
23 board, or convening authority that the witness, by reason of age, sickness, bodily infirmity,  
24 imprisonment, military necessity, non-amenable to process, or other reasonable cause, is  
25 unable or refuses to appear and testify in person at the place of trial or hearing or the present  
26 whereabouts of the witness is unknown.

27

28       ***Art.39. Voting and Rulings. –***

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

1           b.     The military judge of a court-martial shall rule in open court upon interlocutory  
2 questions. Any ruling made by the military judge upon any interlocutory question other than on a  
3 motion for a finding of not guilty, challenge for cause, or on the question of the sanity of the  
4 accused, shall be final and shall constitute the ruling of the court; but the military judge in any  
5 case may consult other members of the court, in closed session before making a ruling and may  
6 change any ruling made at any time during the trial. If any member objects to a ruling of the  
7 military judge of a court-martial upon a motion for a finding of not guilty, challenge for cause,  
8 or on the question of the sanity of the accused, the same shall be decided by a majority vote by  
9 *viva voce*, beginning with the junior in rank. Any such ruling shall be final and shall not be  
10 subject to appeal or review by the civil courts

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

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

22           **Art. 40. Number of Votes Required. –**

23           a. No person shall be convicted:

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

29           b. No person may be sentenced to:

- 30           1) death in offenses expressly made punishable by such in these articles or in any other  
31 applicable provision of law, except by the unanimous vote of all the members of the  
32 court-martial;
- 33           2) life imprisonment or confinement for more than six (6) years of any other applicable  
34 provision of law, except by the concurrence of the military judge and another

1 member; *Provided*, however, That the voting required under this subsection shall not  
2 apply in cases where the accused is tried by a military judge alone.

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

5  
6       **Art. 41. Court to Announce Action.** – A court-martial once it closes to deliberate on its  
7 findings and sentence shall not adjourn until its verdict is announced in open court unless, in the  
8 court's opinion, good reason exists for not making the finding of guilty and the sentence public  
9 at that time. In this latter event, the most senior member may state in open court that the findings  
10 and the sentence are not to be announced.

11  
12       **Art. 42. Records of Trial.** –

13       a.      Each court-martial shall keep a separate record of its proceedings in the trial of  
14 each case brought before it, and such record shall be authenticated by the military judge and the  
15 trial judge advocate. If the record cannot be authenticated by the military judge and the trial  
16 judge advocate by reason of the death, disability, or absence of either or both of them, it shall be  
17 signed by a member in lieu of the military judge and by an assistant trial judge advocate if there  
18 be one, in lieu of the trial judge advocate, otherwise, by another member of the court. If the trial  
19 is by a military judge alone, the records shall be authenticated by the trial judge advocate or by  
20 the assistant trial judge advocate and by the military judge.

21       b.      Every person tried by a court-martial shall, on demand made by himself or by any  
22 person in his behalf, be entitled to a copy of the record of trial.

23  
24                   **TITLE VII – SENTENCE**

25  
26       **Art. 43. Excessive Fines, Cruel and Unusual Punishment Prohibited.** –

- 27       a.      Excessive fines shall not be imposed by any court-martial.  
28       b.      Cruel and unusual punishment of every kind is prohibited.  
29       c.      The use of irons, single or double, except for the purpose of safe custody, is  
30                   prohibited.  
31       d.      Any fine imposed shall be receipted in the manner as prescribed by regulations.

32  
33       **Art. 44. Maximum Limits.** –

1           a. Whenever the punishment for a crime or offense made punishable by these  
2 articles is left to the discretion of the court-martial, the punishment shall not exceed such limit or  
3 limits as the President may from time to time prescribe for that crime or offense.

4           b. In time of peace, the period of confinement in a penitentiary shall in no case  
5 exceed the maximum period prescribed by law, which, under Article 46, permits confinement in  
6 penitentiary, unless in addition to the crime or offense so punishable under such law the accused  
7 shall have been convicted at the same time of one or more other crimes or offenses.

8           c. A person subject to military law convicted by a court-martial but whose sentence  
9 does not provide for dishonorable discharge shall in no case be promoted for a period of one  
10 year from the time the sentence becomes final and executory.

11          d. No reduction in any grade shall be allowed for enlisted personnel convicted by a  
12 court-martial, unless specifically provided for in the sentence.

13          e. A court-martial may impose a punishment of reduction in rank in mitigation of a  
14 mandatory sentence of dismissal from the service.

15

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

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

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

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

28

29         ***Art. 46. Execution of Confinement. –***

30          a. Except for desertion in time of war, repeated desertion in time of peace, and  
31 mutiny, no person under the sentence of court-martial shall be punished by confinement in a  
32 penitentiary unless an act or omission of which he is convicted is recognized as an offense of a  
33 civil nature and so punishable by penitentiary confinement for more than three (3) years by a law

1 of the Philippines, or by way of commutation of death sentence, and unless, also the period of  
2 confinement authorized and adjudged by such court-martial is more than three (3) years.

3 b. When a sentence of confinement is adjudged by a court-martial upon conviction  
4 of two or more acts or omissions, anyone of which is punishable under these articles by  
5 confinement, the same may be executed in a penitentiary.

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

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

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

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

17

## 18 **TITLE VIII – REVIEW OF COURT-MARTIAL PROCEEDING**

19

20 **Art. 47. Effect of Irregularities.** – The proceedings of a court martial shall not be held  
21 invalid nor the findings or sentence disapproved in any case on the grounds of improper  
22 admission or rejection of evidence or for any error as to any matter of pleading or procedure  
23 unless in the opinion of the convening or reviewing authority, after an examination of the entire  
24 proceedings, it shall appear that the error complained of has injuriously affected the substantial  
25 rights of the accused.

26

### 27 **Art. 48. Disposition of Records.** –

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

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

4

5           ***Art. 49. Action by the Convening Authority. –***

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

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

14

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

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

21          b. The power to approve or disapprove the whole or part of the sentence; and  
22          c. The power to remand a case for rehearing under Article 52.

23

24          ***Art. 51. Reconsideration and Revision. –***

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

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

33          1) An acquittal;

- 1           2) A finding of not guilty of any specification, or a ruling thereon which amounts to a  
2           finding of not guilty;
- 3           3) A finding of not guilty of any charge, unless the record shows a finding of guilty  
4           under a specification laid under that charge, which sufficiently alleges a violation of  
5           some other offenses punishable under these articles; or
- 6           4) The sentence originally imposed, with a view to increasing it unless such sentence is  
7           less than the sentence fixed by law for the offenses upon which the conviction has  
8           been had.
- 9           c.     No court-martial in any proceeding on revision shall reconsider its findings or  
10          sentence in any particular case in which return of the record of trial for such reconsideration is  
11          herein before prohibited.

12

13         **Art. 52. Rehearing. –**

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

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

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

31         d.     If the sentence after the first court-martial is approved, but the accused at the  
32          rehearing changes his plea with respect to the charges or specification with which he was found  
33          guilty and sentenced, the sentence as to those charges or specifications may include any  
34          punishment not in excess of that lawfully adjudged at the first court-martial.

1

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

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

9              (1) Conclusion as to whether:

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

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

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

18       C.     The reviewing authority may:

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

24

25       **Art. 54. Suspension of Sentence. –**

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

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

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

1                   ***Art. 55. Lifting of Suspension. –***

2                 a.       Before lifting the suspension of a sentence as approved, the officer having court-  
3                 martial jurisdiction over the suspendee shall order a summary hearing on the reported violation  
4                 of the terms of the suspension of sentence. The suspendee shall be allowed to submit evidence in  
5                 support of his request for the continuation of the suspension of his sentence.

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

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

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

25                   ***Art. 57. Mitigation or Remission of Sentence. –***

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

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

32                 c.       When a sentence of dishonorable discharge has been suspended until the soldier's  
33                 release from confinement, the execution or remission of any part of his sentence shall, if the

1      soldier be confined in the penitentiary or any barracks thereof, be directed by Chief of Staff,  
2      Armed Forces of the Philippines or the Commandant of the Philippine Coast Guard.

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

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

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

13

14          **Art. 58. Restoration. –**

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

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

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

34

1           **Art. 59. Finality of Proceedings, Findings, and Sentence.** – The appellate review of  
2 records of trial provided by these Articles, the proceedings, findings, and sentence of court-  
3 martial as approved, reviewed, or affirmed as required by these Articles, and all dismissals and  
4 discharges carried into execution under sentences by court-martial following approval, review,  
5 or affirmation as required by these Articles, are final and conclusive. The Order publishing the  
6 proceedings of court-martial and all actions taken pursuant to those proceedings are binding  
7 upon all departments, courts, agencies and officers of the Philippine Government; subject only to  
8 action upon petition for new trial and action by the Secretary of National Defense or the  
9 Secretary of Transportation and Communications as provided in Article 57 (f) and the authority  
10 of the President.

11

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

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

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

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

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

32

33           **Art. 61. Review by the Judge Advocate General.** –

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

- 4           (1) Death;
- 5           (2) Confinement for one year or more;
- 6           (3) Confinement for less than one (1) year and the accused appealed to the Office of the  
7     Judge Advocate General within fifteen (15) days from the receipt of notice of  
8     approval of sentence by the convening authority;
- 9           (4) Dishonorable discharge of an enlisted person; or
- 10          (5) Involves the dismissal of an officer, cadet, or probationary second lieutenant. If any  
11     part of the findings or sentence is found to be unsupported in law or if of the sentence  
12     is inappropriate, the Judge Advocate General may vacate, modify, set aside the  
13     findings or sentence or both, as the case may be.

14        b.     If the Judge Advocate General sets aside the findings or sentence, he may order a  
15     rehearing except when the setting aside is based on lack of sufficient evidence in the record to  
16     support the findings, in which case he shall order that the charges be dismissed. If he orders: a  
17     rehearing, but the convening authority finds a rehearing impractical, the convening authority  
18     shall dismiss the charges.

19

## 20                   **TITLE IX – COURT OF MILITARY APPEALS**

21

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

32

33        *Art. 63. Precedence in Appointments of Justices.* – The Presiding Justice of the Court of  
34     Military Appeals shall be so designated in his appointment and the other Justices of the court

1 shall have precedence according to the dates of their respective appointments, or when the  
2 appointments of two or more of them shall bear the same date, according to the order in which  
3 their appointments have been issued by the President of the Philippines.

4

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

10

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

16

17         **Art. 66. Filling of Vacancy in Office of Presiding Justice.** – In case of a vacancy in the  
18 Office of the Presiding Justice or the Court of Military Appeals, or in the event of his inability  
19 to perform the duties and functions of his office, they shall devolve upon the Associate Justice  
20 who is first in precedence, until such disability is removed, or another Presiding Justice is  
21 appointed and has qualified. This provision and the provision of Article 63 shall apply to every  
22 Associate Justice who succeeds to the Office of the Presiding Justice.

23

24         **Art. 67. Filling of Vacancy in Office of Associate Justices.** – In case of vacancy in the  
25 Office of anyone of the Associate Justices of the Court of Military Appeals, or in the event that  
26 anyone of said Associate Justices is absent, or disabled, or incapacitated for any reason, to  
27 perform the duties and powers of his office, the President of the Philippines, upon request of the  
28 Presiding Justice of the Court of Military Appeals and upon recommendation of the Chief Justice  
29 of the Supreme Court, may appoint an Executive Judge of the Regional Trial Court to sit  
30 temporarily in the Court of Military Appeals, until such disability is removed or the vacancy is  
31 permanently filled.

32

33         **Art. 68. Rank, Salary, and Benefits of Justices.** – The Presiding Justice and Associate  
34 Justices of the Court of Military Appeals shall have the same rank and receive the salary,

1 emoluments, retirement pay and benefits corresponding to those of the Presiding Justice and  
2 Associate Justices of the Court of Appeals of the Philippines, respectively.

3

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

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

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

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

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

16

17           **Art. 70. Review of Decision of Judge Advocate General.** – The accused may petition the  
18 Court of Military Appeals for a review of the decision of the Judge Advocate General within  
19 sixty (60) days from (a) the date on which the accused is notified of such decision or (b) the date  
20 on which a copy of the decision of the Judge Advocate General, after a copy thereof is served on  
21 the appellate counsel of record, if any, is deposited in the Philippine mails for delivery by first  
22 class certified mail to the accused or counsel at an address provided by the accused or counsel,  
23 or if no such address has been provided by the accused or counsel, at the latest address listed for  
24 the accused in his official service record or that of counsel as appearing in the record. The court  
25 of Military Appeals shall act upon such petition promptly in accordance with the rules of said  
26 court.

27

28           **Art. 71. Findings and Sentence or Issues to be reviewed.** – In any case reviewed by it,  
29 the Court of Military Appeals may act only with respect to the findings and sentence as approved  
30 by the convening authority, and as affirmed or set aside as inappropriate by the Judge Advocate  
31 General. In cases sent by the Judge Advocate General to the Court of Military Appeals, the  
32 review shall be limited to the issues raised by him. In the review cases granted upon petition of  
33 the accused, action need be taken only with respect to issues specified in the grant or review.  
34 The Court of Military Appeals shall review both questions of fact and law, irrespective of the

1 penalty involved, especially in cases where the appeal is initiated by the accused: *Provided*, That  
2 where the sentence imposed is death or life imprisonment, the petition shall be immediately sent  
3 to the Supreme Court for review in accordance with Article 74.

4

5       **Art. 72. Setting Aside of Findings and Sentence and Ruling.** – If the Court of Military  
6 Appeals sets aside the findings and sentence, it may, except where the setting aside is based on  
7 lack of sufficient evidence in the record to support the findings, order a rehearing. If it sets aside  
8 the findings and sentence, and does not order a rehearing, it shall order that the charges be  
9 dismissed.

10

11       **Art. 73. Return of Record.** – After it has acted on a case, the Court of Military Appeals  
12 shall return the records of the case to the Judge Advocate General for any implementation of the  
13 decision of the Court, and unless there is further action to be taken by the President, the  
14 Secretary of National Defense or Secretary of Transportation and Communications, as the case  
15 may be, the Judge Advocate General shall advise the convening authority to take action in  
16 accordance with that decision. If the Court ordered a rehearing, but the convening authority finds  
17 a rehearing impracticable, the latter may dismiss the charges.

18

19       **Art. 74. Petition for Review on Certiorari.** – The accused may file with the Supreme  
20 Court a petition for review on certiorari of a decision of the Court of Military Appeals. Such  
21 review shall be limited to questions of law which shall be directly set forth in the petition and  
22 shall be governed by the provisions of the Revised Rules of Court prescribing the procedure for  
23 appeals from the Court of Appeals to the Supreme Court: *Provided*, That where the sentence  
24 imposed is death or life imprisonment, the review may be on questions of fact and of law.

25

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

29

30       **Art. 76. Quorum and Vote for Pronouncement of Judgment.** – Five (5) Justices of the  
31 Court of Military Appeals shall constitute a quorum for its sessions en banc, and three (3)  
32 Justices shall constitute a quorum for the sessions of a division. In the absence of a quorum, the  
33 Court or the division shall stand ipso facto adjourned until such time as the requisite number  
34 shall be present, and a memorandum showing this fact shall be entered by the clerk in the

1 minutes of the Court. The affirmative vote of four (4) Justices is necessary to pass a resolution of  
2 the Court en banc. The unanimous vote of the three (3) Justices of a division shall be necessary  
3 for the pronouncement of a judgment. In the event that the three (3) Justices do not reach a  
4 unanimous vote, the Presiding Justice shall designate two (2) Justices from among the other  
5 Justices of the court to sit temporarily with them, forming a division of five (5) Justices and the  
6 concurrence of a majority of such division shall be necessary for the pronouncement of a  
7 judgment.

8       **Art. 77. Power to Promulgate Rules.** – The Court of Military Appeals, sitting en banc,  
9 shall promulgate its own rules to govern the procedure in the court and the allotment of cases  
10 between the divisions, the regular rotation of Justices between them, and other matters relating to  
11 the business of the Court, and these rules shall continue in force until repealed or altered by it.  
12

13       **Art. 78. Appointment, Qualifications, and Compensation of Clerks of Court, and  
14 Compensation of other Officers and Employees.**–

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

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

28       **Art. 79. Department Head Functions of Presiding Justice.** – The functions of  
29 Department Head for the Court of Military Appeals and its subordinates shall be exercised by  
30 the Presiding Justice, or in case of his death, absence, or disability, by the Associate Justice on  
31 duty who holds the most senior appointment.

32  
33

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

13

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

18

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

22

23           **Art. 84. Appellate Counsel. –**

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

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

31           c.       The Appellate Defense Counsel shall represent the accused before the Court of  
32 Military Appeals or the Supreme Court of the Philippines when the accused is a party in the case  
33 before such court and (1) the accused requests to be represented by the Appellate Defense

1 Counsel; and (2) the Judge Advocate General has sent the case to the Court of Military Appeals.  
2 The accused is a party in the case when named as a party in the pleadings before the Court or,  
3 even not so named, when the military judge or any member of the court-martial is named as  
4 respondent in a petition by the Government for any extra ordinary relief.

5 **TITLE X – PUNITIVE ARTICLES**

6

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

- 8       a.     Commits an offense punishable by these Articles or aids, abets, counsels,  
9 commands, or procures its commission, or;  
10      b.     Causes an act to be done, which if directly performed by him would be punished  
11 under this article as principal.

12

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

16

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

21

22       **Art. 88. *Conviction of a Lesser Included Offense.*** – An accused may be found guilty of  
23 an offense necessarily included in the offense charged or of any attempt to commit either the  
24 offense charged or an offense necessarily included therein.

25

26       **Art. 89. *Attempts.*** –

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

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

4

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

8

9        **Art. 91. *Solicitation.*** –

10      a. Any person subject to military law who solicits or advises another or others to  
11 desert in violation of Article 96 or to commit mutiny in violation of Article 106 shall, if the  
12 offense solicited, or advised is committed, be punished for the offenses so committed. If the  
13 offense solicited or advised is not committed or is merely attempted, he shall be punished as a  
14 court-martial may direct.

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

20

21      **Art. 92. *Fraudulent Enlistment, Appointment, Separation or Retirement.*** – Any person  
22 who procures his own enlistment or appointment in the military service of the Philippines by  
23 wilfully making false representation or deliberate concealment as to his qualification for  
24 enlistment or appointment and receives payor allowances thereunder; or procures his own  
25 separation or retirement there from by knowingly making false representation or deliberate  
26 concealment as to his eligibility for that separation or retirement, shall be punished as a court-  
27 martial may direct.

28

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

1           ***Art. 94. Making False Returns or Omitting to Render Returns. –***

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

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

9           ***Art. 95. Desertion. –***

10          a.       Any member of the Armed Forces of the Philippines or Philippine Coast Guard  
11 on active duty who:

12           (1) without authority, goes or remain absent from his unit, organization, or place of duty  
13           with intent to remain away therefrom permanently; or  
14           (2) quits his unit, organization, or place of duty with intent to avoid hazardous duty or  
15           shirk important services; or  
16           (3) without, being regularly separated from the Armed Forces of the Philippines or  
17           Philippine Coast Guard enlists or accepts an appointment in the armed forces or coast  
18           guard of another country without fully disclosing the fact that he has not been  
19           regularly separated therefrom except when authorized by the Republic of the  
20           Philippines, is guilty of desertion.

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

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

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

1  
2       **Art. 97. Entertaining a Deserter.** – Any officer who, after having discovered that a  
3 person subject to military law in his command is a deserter from the service, retains such  
4 deserter in his command without informing superior authority or the commanding officer of the  
5 organizer shall be punished as a court-martial may direct.  
6

7       **Art. 98. Absence without Leave.** –Any member of the Armed Forces of the Philippines  
8 or Philippine Coast Guard on active duty who, without authority, fails to go to his appointed  
9 place of duty at the time prescribe; goes out of place; absents himself or remains absent from his  
10 unit, organization, or place of duty at which he is required to be at the time prescribed; through  
11 neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the  
12 course of duty to move, shall be punished a court-martial may direct.  
13

14       **Art. 99. Contempt towards Superior Officer.** – Any officer who uses contemptuous or  
15 disrespectful words against and in the presence of the President, the Vice-president, Members of  
16 Congress or the Secretary of National Defense or Secretary of Transportation and  
17 Communication shall be guilty of direct contempt and may be dismissed from the service or  
18 suffer such other punishment as a court-martial may direct. However, when the contemptuous or  
19 disrespectful words against the said government officials mentioned herein are uttered in their  
20 absence, the same shall be considered as indirect contempt and shall be punished as a court-  
21 martial may direct.  
22

23       **Art. 100. Disrespectful Towards Superior Officer.** – Any person subject to military law  
24 who behaves with disrespect to any superior officer shall be punished as a court-martial may  
25 direct.  
26

27       **Art. 101. Assaulting or Wilfully Disobeying a Superior Officer.** – Any person subject to  
28 military law who, on any pretense whatsoever:

- 29           a.       strikes his superior officer or draws or lifts up any weapon or offers any violence  
30 against him while he is in the execution of his office; or  
31           b.       willfully disobeys any lawful command of his superior officer, shall be punished,  
32 if the offense is committed in time of war, by life imprisonment and if the offense is committed  
33 at any other time, by such other punishment, as a court-martial may direct.  
34

1           **Art. 102. Insubordinate Conducts towards Non-Commissioned Officer.** – Any enlisted  
2 personnel of the Armed Forces of the Philippines or the Philippine Coast Guard who strikes or  
3 assaults, or who attempts or threatens to strike or assaults, a non-commissioned officer while the  
4 latter is in the execution of his office, or treats with contempt or is disrespectful in language or  
5 deportment toward a non-commissioned officer while the latter is in the execution of his office  
6 shall be punished as a court-martial may direct.

7

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

13

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

17

18          **Art. 105. Cruelty and Maltreatment.** – Any person subject to this chapter who is guilty  
19 of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be  
20 punished as a court-martial may direct.

21

22          **Art. 106. Mutiny or Sedition.** –

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

26          b.       Any person subject to military law who, with intent to cause the overthrow or  
27 destruction of lawful civil authority, in concert with any other person, revolts or creates violence,  
28 or other disturbance against that authority, shall be liable for sedition and shall be punished by  
29 life imprisonment;

30          c.       Any person subject to military law, who fails to do his utmost to prevent and  
31 suppress a mutiny or sedition being committed in his presence, or fails to take all reasonable  
32 means to inform his superior or commanding officer of a mutiny or sedition which he knows or  
33 has reason to believe is taking place, shall be liable for such failure to suppress or report a

1 mutiny or sedition, and shall be punished by life imprisonment or such other penalty as a court-  
2 military may direct;

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

6

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

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

15

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

18

19      **Art. 110. Non-Compliance with Procedural Rules.** – Any person subject to this article  
20 who:

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

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

26

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

30

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

- 1           a.     runs away;
- 2           b.     shamefully abandons, '*surrenders*', or delivers up any command, unit, place or
- 3     military property which it is his duty to defend;
- 4           c.     through disobedience, neglect, or intentional misconduct, endangers the safety of
- 5     any such command, unit, place or military property;
- 6           d.     casts away his arms or ammunition;
- 7           e.     quits his place of duty to plunder or pillage;
- 8           f.     causes false alarm in any command, unit or place under control of the Armed
- 9     Forces of the Philippines or the Philippine Coast Guard;
- 10          g.     wilfully fails to do his utmost to encounter, engage, capture; ~~or destroy~~ any
- 11     troops, combatants, vessels, aircraft, or any other thing, which it is his duty to encounter, engage,
- 12     capture, or destroy;
- 13          h.     does not afford all practical relief and assistance to any troops, combatants,
- 14     vessels, or aircraft of the Armed Forces of the Philippines or the Philippine Coast Guard and/or
- 15     friendly forces when engaged in battle; and
- 16          i.     solicits or advises another or others to commit an act of misbehavior before the
- 17     enemy in violation of these Articles.

18

19         **Art. 113. Subordinate Compelling Commander to Surrender.** – Any person subject to

20     military law who compels or attempts to compel the commander of any place, vessel, aircraft, or

21     other military property, or of any body of the Armed Forces of the Philippines or Philippine

22     Coast Guard and/or friendly forces to give it up to an enemy or to abandon it, or who delivers or

23     surrenders the colors or flag to an enemy without proper authority, shall be punished by life

24     imprisonment or such other punishment as a court-martial may direct.

25

26         **Art. 114. Improper Use of Countersign.** – Any person subject to military law who, in

27     time of war or serious disturbance of the peace, discloses the parole or countersign to any person

28     not entitled to receive it or who gives to another who is entitled to receive and use the parole or

29     countersign, a different parole or countersign from that which, to his knowledge, he was

30     authorized and required to give, shall be punished by life imprisonment or such other

31     punishment as a court-martial may direct.

1           **Art. 115. Violating a Safeguard.** – Any person subject to military law who in time of  
2 war or serious disturbance of the peace, violates a safeguard shall suffer life imprisonment or  
3 such other punishment as a court-martial may direct.  
4

5           **Art. 116. Captured or Abandoned Property.** –

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

10          b.       Any person subject to military law who fails to carry out the duties prescribed in  
11 subsection (a) buys, sells, trades, or in any way deals in or disposes captured or abandoned  
12 property, whereby he receives or expects any profit, benefit, or advantage to himself; or engages  
13 in looting or pillaging, shall be punished by fine or imprisonment, or, both, or by such other  
14 punishment as a court-martial may direct.  
15

16          **Art. 117. Aiding the Enemy.** – Any person subject to military law who aids or attempts  
17 to aid the enemy with arms, ammunition, supplies, money or other things; or without proper  
18 authority, knowingly harbors or protects or gives intelligence to, or communicates or  
19 corresponds or holds any intercourse with the enemy, either directly or indirectly, shall suffer  
20 life imprisonment or such punishment as a court-martial may direct.  
21

22          **Art. 118. Misconduct of a Prisoner.** – Any person subject to military law who, while in the  
23 hands of the enemy for the purpose of securing favorable treatment from his captors, acts  
24 without proper authority in a manner contrary to law, customs, or regulation, to the detriment of  
25 others of whatever nationality held by the enemy as civilian or military prisoners; or while in a  
26 position of authority over such persons maltreats them without justifiable cause, shall be  
27 punished as a court-martial may direct.  
28

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

1

2       **Art. 120. Espionage (as committed by persons subject to military justice).—**

3       (a) Any person subject to this Code who, with intent or reason to believe that it is to  
4 be used to the injury of the Philippines or to the advantage of a foreign nation, communicates,  
5 delivers, or transmits, or attempts to communicate, deliver, or transmit, to any entity - either a  
6 foreign government, its agents, or any faction or unit of any foreign armed forces - either directly  
7 or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic  
8 negative, blueprint, plan, map, model, note, instrument, appliance, at information relating to the  
9 national or coastal defense shall be punished as a court-martial may direct, except that if the  
10 accused is found guilty of an offense that directly concerns:

- 11           (1) advanced weaponry, early warning systems, or other means of defense or retaliation  
12           against large scale attack;
- 13           (2) war plans;
- 14           (3) communications intelligence or cryptographic information; or
- 15           (4) any other major weapons system or major element of defense strategy, the accused  
16           shall be punished with life imprisonment as a court-martial may direct.

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

- 20           (1) The accused has been convicted of another offense involving espionage or treason for  
21           which a sentence of imprisonment for life was authorized by statute.
- 22           (2) In the commission of the offense, the accused knowingly created a grave risk of  
23           substantial damage to the national security.
- 24           (3) In the commission of the offense, the accused knowingly created a grave risk of death  
25           to another person.
- 26           (4) Any other factor that may be prescribed by the President in his capacity as  
27           Commander-in-Chief.

28

29       **Art. 121. False Official Statement. —**

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

1           b. Any other person subject to military law who commits any of the acts enumerated  
2 in the preceding subsection shall be punished as a court-martial may direct.  
3

4           **Art. 122. Military Property - Loss, Damage, Destruction, Wrongful Disposition or Sale**  
5         *to the Enemy.* – Any person subject to military law who without proper authority, sells or  
6 otherwise disposes of, or wilfully or through neglect, destroys, or loses or causes damage to, or  
7 wilfully or through neglect suffers to be lost, spoiled, damaged, destroyed, sold or wrongfully  
8 disposed of, any military property of the Republic of the Philippines, shall make good the loss or  
9 damage and suffer or such punishment as a court-martial may direct. If the military property in  
10 the above paragraph is a firearm, ammunition, explosive or other military ordinance, and is sold,  
11 or caused to be sold, to the enemy, the penalty shall be life imprisonment.

12          **Art. 123. Property other than Military Property of the Philippines - Waste or**  
13         *Destruction.* – Any person subject to military law who wilfully or recklessly wastes, spoils, or  
14 otherwise wilfully and wrongfully destroys or damages any property other than military property  
15 of the Republic of the Philippines shall be punished as a court-martial may direct.

16

17          **Art. 124. Improper Hazarding of Military Vehicle, Aircraft or Vessel. –**

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

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

25

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

29

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

34

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

6

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

13

14          **Art. 129. Intimidation of Person Bringing Provisions.** – Any person subject to military  
15 law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing  
16 provisions, supplies or other necessaries to the garrison, fort, barracks, camp or other place  
17 where troops of the Republic of the Philippines may be serving, shall suffer such punishment as  
18 a court-martial may direct.

19

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

26

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

30

31          **Art. 132. Good Order to be Maintained and Wrong Redressed.** – All persons subject to  
32 military law are to behave themselves orderly in quarters, garrison, camp and on the march; and  
33 any person subject to military law who commits any waste or spoiling or wilfully destroys any  
34 property whatsoever (unless by order of his commanding officer), or commits any kind of

1 depredation or riot, or breach of the peace, shall be punished as a court-martial may direct. Any  
2 commanding officer who, upon complaint made to him, refuses or omits to see reparation made  
3 to the party injured, in so far as the offender's pay shall go toward such reparation as provided in  
4 Article 142, shall be dismissed from the service, or otherwise punished as a court-martial may  
5 direct.

6

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

10

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

16

17       **Art. 135. Unlawful Influencing Action of Court.** –

18       a. Any authority convening a court-martial or any other commanding officer who  
19 shall censure, reprimand, or admonish the court or any member thereof, with respect to the  
20 findings or sentence adjudged by the court-martial or with respect to any other exercise of its or  
21 his functions in the conduct of the proceeding, shall be punished as a court-martial may direct.

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

26

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

30

31       **Art. 137. Various Crimes.** – Members of the Armed Forces of the Philippines and other  
32 persons subject to military law who commit crimes or offenses penalized under the Revised  
33 Penal Code, other penal laws or local government ordinances, regardless of whether or not

1 civilians are co-accused or offended parties, which may be natural or juridical persons, shall be  
2 tried by the proper civil court, except when the offense, as determined before arraignment by the  
3 Judge Advocate General, is service connected, in which case, the offense shall be tried by a  
4 court-martial. Violations of Articles 91 to 137 and Articles 140 to 141, commonly known as  
5 purely military offenses, shall be exclusively tried by court-martial.

6

7           ***Art. 138. Sodomy and Bestiality. –***

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

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

13

14           ***Art. 139. Frauds against the Government. –*** Any person subject to military law who  
15 commits any of the following acts:

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

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

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

24          d.       For the purpose of obtaining or aiding others to obtain, the approval, allowance,  
25 or payment of any claim against the Government or any officer thereof, makes or procures, or  
26 advises the making of, any fact or to any writing or other paper knowing such oath to be false;

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

32          f.       Having charge, possession, or control of any money or other property of the  
33 Government furnished or intended for the military service thereof, knowingly delivers, or causes

- 1 to be delivered, to any person having authority to receive the same, any amount thereof less than
- 2 for which he receives a certificate or receipt;

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

7           h.     Steals, embezzles, knowingly and wilfully misappropriates, applies to his own  
8     use or benefit or wrongfully or knowingly sells or disposes of any ordinance, arms, equipment,  
9     ammunition, clothing, subsistence stores, money, or other property of the Government furnished  
10    or intended for the military service thereof;

11 i. Knowingly purchases or receives in pledge for any obligation or indebtedness  
12 from any soldier, officer, or other person who is part of or employed in the Armed Forces of the  
13 Philippines or the Philippine Coast Guard, any ordinance, arms, equipment, ammunition,  
14 clothing, subsistence stores, or other property of the government, such soldier, officer, or other  
15 person not having lawful right to sell or pledge the same:

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

**Art. 140. Conduct Unbecoming of an Officer and a Gentleman.** – Any officer, cadet, or probationary second lieutenant who is convicted of conduct unbecoming of an officer and a gentleman shall be dismissed from the service.

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

## **TITLE XI – MISCELLANEOUS PROVISIONS**

**33 Art 142. Article to Administer Oath.** – The following officers on active duty in the  
34 Armed Forces of the Philippines or Philippine Coast Guard shall have authority to administer

1 oaths for the purposes of administering justice and for other purposes of military  
2 administrations:

- 3 a. All judge advocates and legal officers;
- 4 b. The president, members, military judge, trial judge advocate, and assistant trial
- 5 judge advocate of court-martial;
- 6 c. The president or chairman of a military board;
- 7 d. All officers designated to take a deposition;
- 8 e. All officers detailed to conduct an investigation;
- 9 f. All adjutants and assistant adjutants;
- 10 g. All administrative officers; and
- 11 h. All officers designated by regulations of the Armed Forces of the Philippines or
- 12 the Philippine Coast Guard and by statute.

13

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

19

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

29

30       **Art. 145. Redress Damage to Property.** –

31       a. Whenever complaint is made to any commanding officer that damage has been  
32 done to the property of any person or that of his property has been wrongfully taken by persons  
33 subject to military law, he may, subject to such regulations as the President may prescribe,  
34 convene a board to investigate the complaint. The board shall consist of from one to three

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

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

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

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

30  
31 **Art. 148. Constitutionality.** – All offenses committed and all penalties, forfeitures, fines  
32 or liabilities incurred prior to the effective date of this Act under any law embraced in or  
33 modified, changed or repealed by this Act shall be prosecuted, punished, and enforced, and  
34 action thereon completed, in the same manner and with the same effect as if this Act had not

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

6

7       **Art. 149. *Applicability.*** – Provisions of this Act which attach a penalty or deprivation of  
8 rights to acts or omissions which were not so penalized by the former laws, are not applicable to  
9 those who, when said laws were in force, may have executed the act or incurred the omission  
10 forbidden or condemned by this Act.

11

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

17

18       **Art. 150. *Repealing Clause.*** – All laws, presidential decrees, issuances, executive orders,  
19 rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby  
20 repealed or modified accordingly. Subject to the provisions of Article 147, any substantive rights  
21 or liabilities existing under such laws or parts thereof prior to the effective date of this Act shall  
22 not be affected by this repeal and this Act shall not be effective to authorize the trial or  
23 punishment for any crime or offense barred by the provisions of existing law.

24

25       **Art. 151. *Appropriation of Funds.*** – For the purpose of this Act, an initial amount of  
26 Fifty Million Pesos (P50,000,00.00) or so much thereof as may be necessary is hereby  
27 appropriated out of any funds in the National Treasury not otherwise appropriated to cover the  
28 salaries of the Presiding Justice and five Associate Justices, the clerk of court and deputy clerks  
29 of court, other officers and employees, and other expenses of the Court of Military Appeals, and  
30 thereafter, the aforesaid amount or so much thereof as may be necessary will be included in the  
31 annual General Appropriations Act.

32

1           **Art. 152. Effectivity.** – This Act shall take effect fifteen (15) days after its publication in  
2       two (2) newspapers of general circulation or the *Official Gazette*. The publication shall be made  
3       not later than thirty (30) days after the approval thereof.

*Approved,*