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THE NATIONAL ASSEMBLY*Number: 19/2008/QH12***SOCIALIST REPUBLIC OF VIET NAM****Independence - Freedom -
Happiness***Hà Nội ,day 03
month 06 year 2008***LAW****AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE LAW ON VIETNAM PEOPLES ARMY OFFICERS**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Law No. 16/1999/QH10 on Vietnam Peoples Army Officers.

Article 1. To amend and supplement a number of articles of the Law on Vietnam Peoples Army Officers:

1. Article 1 is amended and supplemented as follows:**Article 1.** Vietnam Peoples Army officers

Vietnam Peoples Army officers (below referred to as officers) are cadres of the Communist Party of Vietnam and the Socialist Republic of Vietnam State, who operate in the military field and are bestowed by the State the rank of company officer, field officer or general officer.

Military uniforms, shoulder straps insignias and identity cards of officers are prescribed by the Government.

2. Article 11 is amended and supplemented as follows:**Article 11.** Officers posts

1. Officers fundamental posts include:

a/ Platoon leader;

b/ Company commander, company political instructor;

c/ Battalion commander, battalion political instructor;

d/ Regiment commander, regiment political commissar; commander of the Military Command of rural district, urban district, provincial capital or city (below collectively referred to as district level) and political instructor of the district-level Military Command;

e/ Brigade commander, brigade political commissar;

f/ Division commander, division political commissar; commander of the Navy Zone, political commissar of the Navy Zone; commander of the Marine Police Zone, political commissar of the Marine Police Zone; commander of the Military Command of a province or centrally run city (below collectively referred to as provincial level), political commissar of the provincial-level Military Command; commander of the provincial-level Border-Guard Command, political commissar of the provincial-level Border-Guard Command;

g/ Commander of the Army Corps, political commissar of the Army Corps; commander of the Military Arm, political commissar of the Military Arm;

h/ Commander of the Military Zone, political commissar of the Military Zone; commander of the Army Service, political commissar of the Army Service; commander of the Border Guard, political commissar of the Border Guard;

i/ Director of the General Department, political commissar of the General Department;

j/ Chief of the General Staff, director of the Political General Department;

k/ Minister of Defense.

2. Posts equivalent to those defined at Points h and i, Clause 1 of this Article are prescribed by the Prime Minister; posts equivalent to those defined at Points a, b, c, d, e, f and g are prescribed by the Minister of Defense.

3. Article 13 is amended and supplemented as follows:

Article 13. Officers active-service ages

1. The maximum ages of on-active-service officers according to officers ranks:

The company rank: male: 46, female: 46;

Major: male: 48, female: 48;

Lieutenant colonel: male: 51, female: 51;

Senior lieutenant colonel: male: 54, female: 54;

Colonel: male: 57, female: 55;

The general rank: male: 60, female: 55.

2. Upon army demands, officers who are politically and morally qualified, professionally skilled, physically fit and voluntary may have their on-active-service ages prescribed in Clause 1 of this Article prolonged, but for not more than 5 years; in special cases, it may be longer.

3. The maximum ages of officers holding commanding and managing posts, defined at Points a, b, c, d, e, f and g, Clause 1 of Article 11 are prescribed by the Minister of Defense, but must not exceed the officers maximum ages defined in Clause 1 of this Article.

4. Article 15 is amended and supplemented as follows:**Article 15. The highest ranks for officers posts**

1. The highest ranks for officers fundamental posts are prescribed as follows:

a/ Platoon leader: senior lieutenant;

b/ Company commander, company political instructor: captain;

c/ Battalion commander, battalion political instructor: lieutenant colonel;

d/ Regiment commander, regiment political commissar; commander of the district-level Military Command, political instructor of the district-level Military Command: senior lieutenant colonel;

e/ Brigade commander, brigade political commissar: colonel;

f/ Division commander, division political commissar; commander of the Navy Zone, political commissar of the Navy Zone; commander of the Marine Police Zone, political commissar of the Marine Police Zone; commander of the provincial-level Military Command, political commissar of the provincial-level Military Command; commander of the provincial-level Border-Guard Command, political commissar of the provincial-level Border-Guard Command: colonel;

g/ Commander of the Army Corps, political commissar of the Army Corps; commander of the Military Arm, political commissar of the Military Arm: major general;

h/ Commander of the Military Zone, political commissar of the Military Zone; commander of the Army Service, political commissar of the Army Service; commander of the Border Guard, political commissar of the Border Guard: lieutenant general;

i/ Director of the General Department, political commissar of the General Department: lieutenant general;

j/ Chief of the General Staff, director of the Political General Department: general;

k/ Minister of Defense: general.

2. The highest ranks for posts equivalent to those prescribed at Points g, h and i, Clause 1 of this Article are prescribed by the Prime Minister; at Points a, b, c, d, e and f, by the Minister of Defense.

3. Officers in provincial- or district-level military forces in important military and defense areas as defined by the Government or officers in special-task force units defined by the Minister of Defense, who have rendered outstanding services, will be one grade higher than the highest ranks prescribed in Clause 1 of this Article.

5. Article 16 is amended and supplemented as follows:**Article 16. Persons to be bestowed with ranks of on-active service officers**

1. Cadets graduating from active-service officers training schools will be bestowed the rank of second lieutenant; those who graduate with excellent or good grade in peculiar disciplines or record outstanding achievements in work will be bestowed the rank of lieutenant, or in special cases, higher ranks as provided by the Minister of Defense.

2. Non-commissioned officers and soldiers during wartime; professional armymen and defense employees on active service; non-military officials and employees and university graduates or people of higher degrees, who join the army on active service and are appointed to hold posts of officers, will be bestowed the corresponding ranks of officers.

6. Article 18 is amended and supplemented as follows:

Article 18. Officers rank promotion ahead of time

Officers may be considered for rank promotion ahead of time limits prescribed in Cause 2, Article 17 of this Law in the following cases:

1. Recording outstanding exploits in combat or being conferred orders for achievements in work or scientific research;
2. Well fulfilling the responsibilities and tasks of their current ranks, which are two or more grades lower than the highest ranks prescribed for the posts being held by the officers or their current ranks are lower than the highest ranks prescribed for commanding, managing posts.

7. Article 19 is amended and supplemented as follows**Article 19.** Prolongation of the time for officers rank promotion consideration

1. Officers who are due for rank promotion consideration but fail to fully meet the conditions prescribed in Article 17 of this Law will be considered for rank promotion in subsequent years.
2. If officers are disciplined with warning, demotion or stripping during the rank promotion consideration period or with reprimand in the final year of the rank promotion consideration period, the time for their rank promotion consideration shall be prolonged for at least one year.
3. Officers who are disciplined with rank demotion may, after at least one year from the date of demotion, be considered for rank promotion if they make progress.

8. Article 25 is amended and supplemented as follows:**Article 25.** Competence to decide on officers

1. The competence for post appointment, rank bestowment and promotion for officers is prescribed as follows:

a/ The State President appoints the Chief of General Staff, the director of the Political General Department, bestows and promotes the ranks of general, senior-lieutenant general and navy admiral;

b/ The Prime Minister appoints General Department director and political commissar; Military Zone commander and political commissar; Military Arm commander and political commissar; Border-Guard commander and political commissar, and equivalent posts; bestows and promotes the ranks of lieutenant-general, navy vice-admiral, major-general, navy rear admiral;

c/ The Minister of Defense appoints the remaining posts, bestows and promotes the remaining ranks;

d/ The appointment of posts in the procuracy, court and judgment enforcement sectors in the army complies with the provisions of law.

2. Authorities competent to appoint any posts, bestow and promote any ranks will be competent to decide on the prolongation of on-active service duration, wage raising, transfer, detachment, dismissal from posts, assignment of lower positions, demotion, rank stripping, degrading, relief from active service, class transfer and declassification of reserve officers, for officers at such posts or such ranks.

9. Article 29 is amended and supplemented as follows:**Article 29.** Obligations, responsibilities and interests of detached officers

1. To perform obligations and responsibilities and enjoy interests like officers who are on active service in the army; to be provided with working and living conditions by agencies or organizations which they are detached to.
2. To perform tasks assigned by competent authorities and submit to the management by the agencies or organizations which they are detached to.

10. Article 31 is amended and supplemented as follows:**"Article 31.** Wages, allowances, dwelling houses and working conditions for on-active service officers

On-active service officers are entitled to the following wages, allowances, houses and working conditions:

1. The wage and allowance regimes are provided for by the Government; officers wage scales are based on the prescribed ranks and posts, suitable to the army's nature and tasks as a special branch of labor; the officers seniority is calculated according to their current wage scales and duration on active service. Officers are entitled to allowances, subsidies like cadres and public servants under the same working conditions and peculiar military allowances and subsidies.

2. Officers who are fully qualified and due for rank promotion consideration but have been promoted to the highest ranks prescribed for their current posts or to the rank of colonel or general for four years or more and are not yet promoted to higher ranks will have their wages raised according to wage regimes applicable to officers.

3. Officers who concurrently hold different posts at a time are entitled to the benefits prescribed for the highest post and allowances for concurrently holding leading posts according to law.

4. When officers are assigned to hold posts lower than their current ones as provided for at Point a, Clause 3, Article 21 of this Law, their benefits from former posts will be retained.
5. Upon receipt of decisions on relief from their posts, officers are entitled to benefits according to their new posts;
6. To be provided with conditions for task performance according to regulations of the Minister of Defense;
7. To be provided with dormitories and household registration according to regulations of the Government.

11. Article 35 is amended and supplemented as follows:

Article 35. Demobilized officers

1. Officers are demobilized in the following cases:
 - a/ Being qualified for retirement;
 - b/ Reaching the demobilization ages specified in Article 13 of this Law;
 - c/ Due to changes in organization or staff, which no longer require officers, professional army men, defense employees;
 - d/ No longer satisfying the criteria prescribed for on-active service officers.
2. Officers are demobilized in one of the following forms:
 - a/ Retirement;
 - b/ Transfer to civil jobs;
 - c/ Returning home from military service;
 - d/ Discharge from military service under the regime prescribed for diseased army men.
3. When being demobilized, officers, if fully qualified and still in the service age of reserve officers specified in Article 38 of this Law, may be transferred to the class of reserve officers.

12. Article 37 is amended and supplemented as follows:

Article 37. Benefits of demobilized officers and on-active service officers who are killed in action or die

1. Retired officers are entitled to the following benefits:
 - a/ Pensions calculated under Clause 1, Article 31 of this Law;
 - b/ If retiring before the rank-based highest ages prescribed in Clause 1, Article 13 of this Law due to changes in organization, staff or expiry of ages prescribed for holding commanding and managing posts and non-employment by the army, officers are entitled to lump-sum allowances prescribed by the Government in addition to their pensions;
 - c/ Using uniforms, shoulder straps and insignias on festive days and at meetings and traditional exchanges of the army;
 - d/ Being registered for permanent residence and given conditions to work and earn their living by administrations of localities where they lawfully reside; if having no dwelling houses, being provided with dwelling houses or residential land according to regulations of the Government;
 - e/ Being entitled to medical examination and treatment under health insurance regimes at military and civilian medical establishments.
2. Officers transferred to civilian jobs are entitled to the following benefits:
 - a/ To be provided with necessary professional training at the request of organizations;
 - b/ To have their wage scales at the time of transfer preserved for at least 18 months;
 - c/ Upon retirement, to enjoy seniority allowances calculated according to their on-active service duration and ranks at the time of transfer; in case their current wages are lower than the officers wages at the time of transfer, the officers wages at the time of transfer will be used for calculation of pensions;
 - d/ The benefits defined at Point c, Clause 1 of this Article;
 - e/ If being re-enlisted in the army upon demand, the transfer duration will be counted into their continuous working duration for rank promotion consideration and their working seniority.
3. Officers returning home from military service are entitled to the following benefits:
 - a/ A lump-sum employment allowance and demobilization allowance;
 - b/ In case of ailment, to enjoy medical examination and treatment free of charge or at reduced charges according to regulations of the Minister of Defense, if they have served in the army for full 15 years or longer;
 - c/ The benefits defined at Points c and d, Clause 1 of this Article.

4. Officers discharged from military service under regimes applicable to diseased army men are entitled to the following benefits:

a/ The benefits prescribed by law on preferential treatment towards people with meritorious services to the revolution and social insurance regimes as provided for by the Law on Social Insurance;

b/ The benefits defined at Points c and d, Clause 1 of this Article.

5. Officers with a duration of direct engagement in combat, in service of combat or working in difficulty-hit areas or peculiar sectors or trade will have such duration converted for calculation of benefits to be enjoyed upon their demobilization.

6. With regard to on-active service officers who have been killed in action, their relatives are entitled to regimes prescribed by law for people with meritorious service to the revolution and to a lump-sum allowance according to regulations of the Government.

7. With regard to on-active service officers who have died, their relatives are entitled to a lump-sum allowance according to regulations of the Government, in addition to the regimes prescribed by the Law on Social Insurance.

13. Article 38 is amended and supplemented as follows:

Article 38. Service ages of reserve officers

The highest ages of reserve officers are provided for as follows:

Company rank: 51;

Major: 53;

Lieutenant colonel: 56;

Senior lieutenant colonel: 57;

Colonel: 60;

General rank: 63.

14. Article 40 is amended and supplemented as follows:

Article 40. Summoning for training of reserve officers and summoning of reserve officers for active service, exercise, mobilization readiness and combat readiness examination

Based on the Government's plans, the summoning for training of reserve officers, the summoning of reserve officers for active service, exercise, mobilization readiness and combat readiness examination shall be carried out according to the following regulations:

1. Summoning for training of reserve officers:

a/ The Minister of Defense shall decide to summon professional army men, to be-demobilized non-commissioned officers or civilian university graduates or people with higher degrees;

b/ District-level Peoples Committee presidents shall decide to summon cadres, public servants and non-commissioned officers residing in their respective localities.

2. Summoning of reserve officers for active service in wartime; for exercise, mobilization readiness and combat readiness examination:

a/ The Minister of Defense shall decide to summon reserve officers holding the brigade commander or equivalent positions, division commander or equivalent positions; reserve officers of colonel rank;

b/ Provincial-level Peoples Committee presidents shall decide to summon reserve officers holding the regiment commander or equivalent positions, reserve officers of senior-lieutenant colonel rank; district-level Peoples Committee presidents shall decide to summon reserve officers holding the battalion commander, equivalent or lower positions, reserve officers of lieutenant colonel or lower ranks.

3. The summoning of reserve officers for urgent tasks but not to the extent of local mobilization and the summoning of reserve officers for two-year active service in peacetime shall be decided by the Minister of Defense.

15. Article 44 is amended and supplemented as follows:

Article 44. Discharge from reserve officer class

Reserve officers who pass the ages prescribed in Article 38 of this Law or no longer satisfy the prescribed conditions and criteria shall be discharged from the reserve officer class.

The de-classification of reserve officers shall be decided by competent authorities.

Article 2.

To annul Clauses 4 and 16 and restructure the clauses of Article 7 of Law No. 16/1999/QH10 on Vietnam Peoples Army Officers as follows:

Clauses 5 thru 15 of Article 7 are changed into Clauses 4 thru 14; Clause 17 is changed into Clause 15. After the restructure, Clause 8 (Clause 9, Article 7 of the current Law) is amended into: 8. Other professional officers are those who take on jobs in branches other than groups of officers branches defined in Clauses 4, 5, 6 and 7 of this Article.

Article 3. This Law takes effect on July 1, 2008.

This Law was passed on June 3, 2008, by the 12th National Assembly of the Socialist Republic of Vietnam at its 3rd session.