

Footnotes

Footnote 1: The Ministry of National Defense issued Order Chung-Yueh No. 366 on July 14, 1958, promulgating the “Regulations Governing the Preferential Savings Scheme for Retirement and Severance Pay of Retired or Discharged Officers in the Armed Forces,” which allowed retirement and severance pay to be deposited as preferential savings. Subsequently, the Ministry of National Defense issued Order (53) Fa-Chia No. 10 on June 1, 1964, promulgating the “Regulations Governing the Preferential Savings Scheme for Retirement Pay of Retired or Discharged Officers, Non-Commissioned Officers, and Soldiers in the Armed Forces,” allowing retirement pay and military insurance payments to be deposited as preferential savings (see The Department of Retirement and Survivor Relief of the Ministry of Civil Service, Statement on the Amendment of the “Regulations Governing the Preferential Savings Scheme for Lump Sum Retirement Pay and Old Age Benefit for Retired Public Service Personnel (Feb. 1, 2011), Page 1, <https://www.mocs.gov.tw/pages/detail.aspx?Node=701&Page=3394&Index=2> (last visited August 23, 2019)). The current applicable regulations are the “Regulations Governing the Preferential Savings Scheme for Retirement Severance Pay and Military Insurance Payment of Retired or Discharged Officers and Non-Commissioned Officers in the Armed Forces,” promulgated by the Ministry of National Defense in Order Kuo-Kuei-Wei-Hui No. 1070000109 on June 25, 2018, and implemented on July 1, 2018.

Footnote 2: According to Article 29, Paragraph 7 of the Disputed Act, military personnel who do not meet the conditions for receiving retirement or severance pay may, if they have contributed to the Pension Fund for more than three years, apply for a one-time payment of the principal and interest of the government pension contributions. However, Article 9 of the Civil Service Retirement, Severance, and Survivor Relief Act, and Article 10 of the Act Governing Retirement, Severance, and Bereavement Compensation for the Teaching and Other Staff Members of Public Schools contain no similar provisions.

Footnote 3: Similar provisions can be found in:

1. Article 21, first sentence of Paragraph 1 of the Indemnities Act for

Military Personnel: “The compensations for military personnel shall be paid from the Pension and Compensation Fund jointly set up and allocated by the government and the military personnel (referred to as the ‘PCF’ hereunder), and the government shall take the final responsibility of guarantee to pay.”

2. Article 8, Paragraph 1 of the Act of Military Service for Volunteer Enlisted Soldiers: “The Retirement Separation Payment and the Indemnity Funds of the Volunteer Enlisted Soldiers are allocated from the government and the active service personnel, establishing a fund responsible for the payments, and the government shall take the final responsibility of guarantee to pay.”

3. Article 49 of the National Pension Act: “The government will assume the ultimate responsibility for the insurance’s finances.”

Footnote 4: Q&A and publicity material “A One-Page Guide to Pension Reform” (PDF, p. 3) on the website of the National Pension Reform Committee, Office of the President, available at <https://pension.president.gov.tw/cp.aspx?n=29DC618F37CE7E74&s=A13E1064AD055167> (last visited August 23, 2019).

Footnote 5: *ibid.*

Footnote 6: For civil servants, real wage income refers to basic pay plus professional allowances, while for educational personnel it refers to basic salary plus academic research allowances. On average, basic pay accounts for about fifty-nine percent of real wage income among civil servants, ranging from fifty-eight percent at Senior Rank Twelve, Seniority Four (800 pay points), to sixty-three percent at Junior Rank Nine, Seniority Seven (710 pay points). Among educational personnel, the proportion of basic salary averages 56.7 percent, ranging from forty-nine percent for professors, fifty-three percent for associate professors, fifty-five percent for assistant professors, and sixty percent for lecturers, to sixty-one percent and sixty-four percent for teachers with pay levels equivalent to 750 and 710 pay points of civil servants respectively, and fifty-seven percent for those equivalent to 460 pay points. For military personnel, the figures are approximately 57.2 percent for colonels at level twelve with twenty-eight years of seniority, 55.2 percent for lieutenant colonels at level twelve, 55.4 percent for majors at level twelve, 56.4 percent for sergeant majors first class at level twenty

with thirty-five years of seniority, forty-eight percent for master sergeants at level twelve with thirty years of seniority, and 45.6 percent for staff sergeants at level twelve with twenty years of seniority. In general, most civil servants and teachers who do not hold supervisory positions receive a real wage income that averages about 1.6 to 1.7 times their basic pay. As a result, when the retirement income replacement rate is calculated using twice the basic pay as the denominator, the outcome appears comparatively lower, whereas when calculated on the basis of real wage income, the replacement rate is higher. For a small number of military personnel with longer years of service, the real wage income replacement rate can even exceed one hundred percent. (Source: Q&A and publicity material “A One-Page Guide to Pension Reform” (PDF, p. 4), website of the National Pension Reform Committee, Office of the President, available at <https://pension.president.gov.tw/cp.aspx?n=29DC618F37CE7E74&s=A13E1064AD055167>, last visited August 23, 2019. See also the supplementary material prepared by the Executive Yuan (p. 2) for the public explanatory session held by this Court on December 4, 2018 regarding the Act of Military Service concerning Officers and Non-commissioned Officers, as well as the material prepared by the Executive Yuan (p. 8) for the public explanatory session held by this Court on May 15, 2019 regarding the Civil Service Retirement, Severance, and Survivor Relief Act and the Act Governing Retirement, Severance, and Bereavement Compensation for the Teaching and Other Staff Members of Public Schools.) Accordingly, when the retirement income replacement rate is calculated using twice the basic pay as the denominator, the converted real wage income replacement rate is further multiplied by approximately 1.18 times (2/1.7), 1.21 times (2/1.65), or 1.25 times (2/1.6), as shown in the following table:

Seniority		20 years	25 years	30 years	35 years	40 years	
From July 1, 2028	Statutory Retirement Income Replacement Rate (Appendix Table 3 of Article 26 of the Disputed Act)	55%	65%	75%	85%	90% (commissioned officer)	95% (non-commissioned officer)
	Real Wage Income Replacement	64.9%	76.7%	88.5%	100.3%	106.2%	112.1%

	Rate (×1.18), approximately						
	Real Wage Income Replacement Rate (×1.21), approximately	66.55%	78.65%	90.75%	102.85%	108.9%	114.95%
	Real Wage Income Replacement Rate (×1.25), approximately	68.75%	81.25%	93.75%	106.25%	112.5%	118.75%

Footnote 7: *ibid.*

Footnote 8: In the public briefing held at this Court on December 4, 2018, the Ministry of National Defense stated: “The design of the ‘guaranteed minimum amount’ for military personnel had consulted the approach adopted for civil servants and educational personnel, which adopts the ‘total of base salary and professional allowance of the lowest-ranking civil servant at grade-one of the designated appointment rank.’ At the same time, it took into account the characteristics of military service, including the requirement to maintain combat readiness around the clock (twenty-four hours a day), the need to remain on standby at all times to assist in responding to various unforeseen disasters or accidents, long working hours, and the inherently dangerous nature of military service. It also considered the fact that, due to the ‘limits on years of service,’ the period during which the right to work is protected is shorter for military personnel, while, upon retirement or severance, retired or severed military personnel are often in their prime and must shoulder heavy family responsibilities. In light of these considerations, the scheme adopts the total of the level-one base salary and professional allowance of a second lieutenant, the lowest rank of commissioned officers, as the guaranteed minimum amount in order to maintain the basic livelihood of veterans who receive pensions.”

Footnote 9: The term “Unfunded Actuarial Accrued Liability” refers to the amount of actuarial accrued liability remaining after deducting the amount already contributed to the assets of the Pension Fund; that is, the amount by which the actuarial liability exceeds the assets of the Pension Fund. This is a hidden liability that gradually emerges over time and will transform into part of fiscal expenditure in the future (see page 87 of the sixth actuarial report).

Footnote 10: Paragraph 3 of the legislative rationale for Article 39 of the Act states: “Currently, the amounts of pensions and alimony which retired or severed

officers and non-commissioned officers may receive following their retirement or severance, or the bereavement annuity which their bereaved members may receive, are adjusted in tandem with adjustments to the pay of persons on active service. This not only leads to an unreasonable situation where the post-retirement income of retired personnel is close to the remuneration of persons on active service, but also creates a long-term burden on the Pension Fund and an imbalance between contribution obligations and benefit entitlements. By consulting Article 67 of the Act Governing the Retirement, Severance, and Bereavement Compensation for Civil Servants, this provision therefore establishes an adjustment mechanism for the amounts of pensions and alimony which retired or severed officers or non-commissioned officers may receive following their retirement or severance, or the bereavement annuity which their bereaved members may receive. As for the enumerated factors, such as the overall financial status and economic environment of the State, the consumer price index, and the financial profit or loss of the Pension Fund, these must be considered comprehensively in determining the extent of any adjustment, and any decision must be made only after thorough deliberation through appropriate procedures. Accordingly, authorization is granted to prescribe detailed rules governing implementation of the adjustment mechanism in the Enforcement Rules of the Act so as to facilitate implementation.