

# **Draft Amendments to the Cross-Strait Act Strengthening Regulations on Entry to Mainland China by Retired or Discharged Civil Servants and Military Personnel Pass Executive Yuan Session Review and will be Promptly Submitted to the Legislative Yuan for Deliberation**

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The Mainland Affairs Council (MAC) drafted amendments to Article 9, Article 9-3, and Article 91 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area (the "Cross-Strait Act") to strengthen management regulations on entry to mainland China by retired or discharged civil servants and military personnel and safeguard the overall interests of the country. The Executive Yuan today (July 6, 2017) completed review of the draft amendments at its 3556<sup>th</sup> meeting and will promptly request deliberation by the Legislative Yuan.

The MAC indicated that the aforementioned draft amendments to the Cross-Strait Act revise provisions setting the period of restriction on travel to the Mainland by retired or discharged personnel to three years in principle, granting the original retaining agency the right to increase or decrease this period. The amended rules require a period of restriction of at least three years and stipulate that the original retaining agency can increase, but not decrease, the period of restriction. The amendment also stipulates a reporting system following the period of restriction. Related agencies may require that personnel with a higher confidentiality level continue to report to the original retaining agency after expiry of the period of restriction on entry to the Mainland before traveling to the Mainland. The original retaining agency may require lifelong reporting by certain vital personnel.

Regarding public concern over participation by retired generals (admirals) in political activities in mainland China, the MAC stated that the aforementioned draft amendments to the Cross-Strait Act also add provisions on participation in political activities by personnel retired or discharged from high-ranking civil and military positions. Violators can be fined, their pension payments can be stripped or terminated, and their merit medals can be revoked. The specific regulations are as follows:

1. Regulated personnel retired or discharged from high-ranking civil and military positions include persons in the following three categories: personnel at the administrative deputy head level or higher who served at agencies related to national defense, foreign affairs, Mainland affairs, or national

security; personnel at the lieutenant general (vice admiral) rank or higher; and heads of intelligence agencies. However, such personnel shall be exempted from this rule if they have been retired or discharged for at least 15 years.

2. Participation in political activities held by political parties, the government, or military agencies in mainland China is prohibited in principle if the event or celebration is presided by the mainland Chinese leader. However, exceptions may be granted at the consent of the original retaining agency. Participants in other activities may not salute a flag or emblem or sing a song symbolizing the mainland Chinese regime, or engage in other similar acts that obstruct the dignity of the state.

3. Penalties will be graded according to the rank or importance of duties of the violators before their retirement or discharge. First, generals (admirals) retired for less than 15 years, heads of intelligence agencies, or personnel at the administrative deputy head or higher level at sensitive agencies may be penalized by up to five years of 10%~100% reduction in monthly pension payments (for personnel receiving monthly pensions) or a fine of NT\$500,000 to NT\$5 million (for personnel receiving a lump-sum pension). Secondly, lieutenant generals (vice admirals) retired for less than 15 years may be penalized by up to five years of 10%~50% reduction in monthly pension payments (for personnel receiving monthly pensions) or a fine of NT\$200,000 to NT\$1 million (for personnel receiving a lump-sum pension). However, in extreme circumstances identified by the review committee, a violator may be deprived of their right to receive monthly retirement (discharge) pension payments from the time of the act was committed. Moreover, penalized persons shall also return any medals of merit.

4. The draft also emphasizes procedural safeguards and the need for caution in the handling of violations. Case identified shall be reviewed and approved by a committee organized by the original retaining agency in conjunction with the National Security Bureau, Ministry of Interior, Ministry of Justice, MAC, and other related agencies.

Finally, the MAC indicated that, while the aforementioned regulations may impose certain restrictions on the freedoms and rights of retired or discharged civil servants and military personnel, the government has limited these measures to the minimum and necessary scope based on the particularities of cross-Straits relations, as stipulated in Article 23 of the Constitution of the Republic of China. The general public and majority of retired or discharged personnel will not be affected. Moreover, the amended law will further clarify legal provisions. It will not affect the majority retired or discharged personnel entering mainland China to engage in general exchange activities. It can also prevent disorderly exchanges in the course of cross-Straits interactions. The MAC is confident that the draft amendment will be supported by the majority of the people. It also hopes that the Legislative

Yuan can complete the legislative procedures for the amendment as soon as possible to promptly meet the expectations of all sides.