HEADQUARTERS
EIGHTH UNITED STATES ARMY
UNIT #15236
APO AP 96205-5236

Eighth U.S. Army Regulation
No. 27-20

19 May 2004

(Effective 20 May 2004)
Legal Services

CLAIMS

SUPPLEMENTATION. Supplementation of this regulation and issuance of command and local forms is prohibited without prior approval of HQ Eighth U.S. Army (EAJA-CSK), Unit #15236, APO AP 96205-5236.

INTERNAL CONTROL PROVISIONS. This regulation does not contain management control checklists.

1. PURPOSE. This regulation prescribes polices and procedures for the investigation, adjudication, and settlement of claims arising within the Republic of Korea (ROK), for which the United States Armed Forces Claims Service-Korea (USAFCS-K) has responsibility.

2. APPLICABILITY. This regulation applies to all Eighth U.S. Army major subordinate command (MSC) commanders, staff elements, assigned and attached units, and units under the operational control of the Eighth U.S. Army.

3. REFERENCES.

a. The following are required publications:

(1) AR 27-20 (Claims). Cited in paragraphs 5a, 5b(3)(a), 6, 8e, 9, and 11.

(2) DODD 5515.8 (Single Service Assignment of Responsibility for Processing of Claims). Cited in paragraph 8a.

(3) USFK Reg 1-27 (Settlement of Tort Claims and Non-Combat Activity Claims in Korea). Cited in paragraph 8a.

(4) USFK Reg 526-11 (United States Forces Korea Relations with Korean Nationals Condolence Visits and Solatium Payments). Cited in paragraphs 10a, 11 and 11c.

b. A related publication is: Department of the Army Pamphlet 27-162 (Claims).

4. ABBREVIATIONS. Abbreviations used in this regulation are explained in the glossary.

5. RESPONSIBILITIES.

a. The U.S. Armed Forces Claims Service, Korea (USAFCS-K), is the command claims service for Eighth U.S. Army. The Commander of USAFCS-K will–

(1) Exercise claims settlement authority as specified in AR 27-20.

(2) Supervise and impact the investigation, processing and settlement of claims against and in favor of the United States under the statutes and regulations listed in AR 27-20 and pursuant to other appropriate statutes, regulations and authorizations.

(3) Designate and grant claims settlement authority to Area Claims Offices and claims approval authority to Claims Processing Offices, as specified in AR 27-20.

(4) Train claims personnel, monitor their operations and ongoing claims administration and conduct an annual claims training course.

(5) Implement appropriate claims policies.

(6) Prepare and publish claims directives.

(7) Administer the command claims expenditure allowance, providing necessary data, estimates and reports to the U.S. Army Claims Service on a regular basis.

(8) Ensure that SOFA claims are investigated, properly processed and appropriately funded.

(9) Serve as the chief of the United States "sending State office" in accordance with Article XXIII of the United States-Republic of Korea Status of Forces Agreement (US-ROK SOFA).

(10) Supervise and provide technical assistance to subordinate Area Claims Offices within Korea and Japan.

(11) Appoint Foreign Claims Commissions.

(12) Establish and maintain the Eighth U.S. Army Disaster Claims Standing Operating Procedure and conduct an annual disaster claims training exercise, normally before the onset of monsoon season.

(13) Adjudicate and pay claims as provided in AR 27-20. If cash payments are deemed necessary due to the nature and extent of damages resulting from a disaster, the Commander, USAFCS-K, will coordinate with the Commander, 175th Finance Command, to facilitate such payments. If the Commander, 175th Finance Command, directs that cash payments are not feasible or are restricted due to external circumstances, alternative payment methods will be coordinated with the Commander, USAFCS-K.

(14) Establish procedures for the payment of claims for loss of or damage to personal property incident to service with the U.S. Army filed by Korean Augmentees to the U.S. Army (KATUSA).

(15) Train all Maneuver Damage Officers (MDOs) in the ROK and provide them with reference materials for investigating incidents of maneuver damage. All MDOs are required to be certified annually by the USAFCS-K.

b. Eighth U.S. Army subordinate unit commanders will–

(1) Support disaster claims operations at the request of the Commander, USAFCS-K;

(2) Ensure the USAFCS-K is notified of any Joint Chiefs of Staff directed or coordinated field training exercise involving U.S. units of battalion size or larger occurring outside of established U.S. or ROK military training areas. This notification will include the exercise date, boundaries of the anticipated maneuver area, and unit points of contact for damage inquiry.

(3) Appoint claims investigating officers, as required.

(a) AR 27-20, paragraph 2-2(d)(1)(a), requires commanders to appoint a commissioned, warrant, or noncommissioned officer, or a qualified civilian employee to investigate claim incidents that involve the unit.

(b) Each battalion-sized unit in Eighth U.S. Army is required to appoint a MDO in the grade of E-7 or above. Written orders, including the name and contact information for the MDO, should be reported to USAFCS-K, within 2 working days of the appointment.

6. INVESTIGATING CLAIMS. Section IV of Chapter 2 of AR 27-20 requires that claims be investigated by a Claims Judge Advocate (CJA), claims personnel, or unit claims officer and sets forth the recommended investigative methods and techniques.

a. The claims officer will identify each individual responsible for the damage or injury. Korean nationals will be identified by name, Korean identification number, and status, such as KATUSA, and if military, unit of assignment (U.S. or ROK). When the claimed amount is less than 500,000 Won, a site visit normally will not be required unless deemed necessary by the claims officer. Reports of site visits conducted will be submitted regardless of the claimed amount.

b. If the incident under investigation involves damage to, or the wrongful use of, real estate, USFK Engineer, Real Estate/SOFA Division, will be asked to determine if the claimant's property is subject to an acquisition agreement obtained by the ROK Government under the U.S.-ROK SOFA, Article II. If such an acquisition agreement exists, a copy will be forwarded to USAFCS-K, with the completed investigation.

7. MANEUVER DAMAGE INVESTIGATIONS. Maneuver damage is damage resulting from activities and maneuvers of units during exercises or non combat activities occurring during a period of hostility. The MDO is responsible for investigating incidents of maneuver damage. In addition, the MDO is responsible for assessing maneuver damage risks, training unit personnel, and taking action before exercises to mitigate damage.

a. Prior to a maneuver exercise, MDOs should--

(1) Coordinate with the local CJA to review claims procedures;

(2) Conduct pre-convoy route reconnaissance to identify possible trouble spots;

(3) Photograph pre-existing damage to prevent frivolous claims after the exercise;

(4) Coordinate with local Korean National officials;

(5) Ensure each unit has a maneuver damage team prepared for clean-up;

(6) Include maneuver damage as part of the unit's on-going risk assessment for any operation;

(7) Determine if contracts related to the exercise contain terms covering maneuver damage;

(8) Alert commander of potential significant damage.

b. During an exercise, MDOs should--

(1) Alert commanders when maneuvers are improperly conducted on private property without permission of the owner, whether or not crops are planted;

(2) Assist unit commanders in being particularly sensitive and aware of populated areas, and areas under cultivation

(3) Assist units in avoiding damage to utilities and all structures, including homes, farm structures, dikes, etc;

(4) Upon receiving notification of maneuver damage, conduct a prompt and thorough investigation;

(5) Advise units on cleanup when leaving a site - all land should be returned to the condition it was found.

c. Maneuver Damage Reports.

(1) MDOs will report all actual or alleged maneuver damage incidents, including incidents involving death and personal injury, by completing the EA Form 547EK-E (Maneuver Damage Report). EA Form 547-EK-E is available electronically at: https://www-eusa-4.korea.army.mil. A maneuver damage report must include an accurate and complete analysis of the cause of damage, to include an opinion as to whether the cause of damage allegation is substantiated and why it is or is not substantiated (who, what, when, where, why, how). In addition, the MDO should provide a thorough description of the damage (e.g., type of vegetation damaged, height of vegetation damaged, distances involved, etc.).

(2) The MDO should identify in the Maneuver Damage report, to the best of his/her ability with the information available, each individual responsible for the damage or injury. MDOs should submit pictures of damage or alleged damage with the Maneuver Damage Report.

(3) Maneuver damage reports must be prepared and forwarded within 5 working days of the incident. Distribution is as follows:

(a) Original to USAFCS-K (SOFA Claims), APO AP 96205-5311;

(b) One copy to the preparing unit's G5 or civil affairs section;

(c) One copy to the claimant;

(d) Other copies and distribution as required by an operation plan or other appropriate authority.

(4) The reverse side of EA Form 547EK-E providing for unit movement reports may be used to provide more information or details of an incident (such as the opinion and observations of the MDO or sketches of the damage area).

8. CLAIMS ARISING UNDER THE MILITARY CLAIMS ACT, FOREIGN CLAIMS ACT AND THE US-ROK SOFA.

a. All tort and non-combat activity claims arising in Korea under the Military Claims Act, Foreign Claims Act or the U.S.-ROK SOFA will be processed in accordance with USFK Reg 1-27. The Army has single service responsibility for all such claims arising in the Republic of Korea per DODD 5515.8.

b. Except as mentioned below, all claims cognizable under the SOFA will be filed with the ROK District Compensation Committee having jurisdiction over the area where the loss occurred or where the claimant lives. The following claims are outside the scope of the SOFA claims procedures and will be filed directly with the USAFCS-K: claims based on maritime incidents or claims resulting from acts or omissions of a member of Joint U.S. Military Group, Korea, Special U.S. Liaison Advisor, Korea, or other Department of Defense Personnel not covered by the SOFA.

c. The Commander, Eighth U.S. Army, has delegated the authority to appoint foreign claims commissions to the Commander, USAFCS-K. The following permanent claims commissions are authorized as constituted, by members appointed by the Commander, USAFCS-K:

(1) Foreign Claims Commission K90 (three members).

(2) Foreign Claims Commission K91 (single member).

(3) Foreign Claims Commission K92 (single member).

d. Foreign Claims Commissions may make advance payments in nonscope SOFA claims either on their own initiative or at the request of the claimant. A claimant may request an advance payment from the USAFCS-K, after filing his/her claim with the district compensation committee having jurisdiction over the claim.

e. A claimant with a non-SOFA claim may request an advance payment when the claim is filed. The commission may make an advance payment if the conditions in AR 27-20, paragraph 2-54 are met.

9. PERSONNEL CLAIMS ARISING FROM DAMAGE AT QUARTERS. Under AR 27-20, cognizable claims under the Personnel Claims Act include those filed by military personnel for certain losses of personal property at authorized quarters.

a. For personnel claims purposes, authorized quarters include approved and authorized off- post quarters.

b. For claims purposes, authorized quarters do not include off-post quarters obtained by individuals who are required to maintain or do maintain quarters on an installation. Claims for losses at such off-post quarters are not payable.

10. SOLATIA PAYMENTS.

a. Condolence visits and solatia payments are governed by USFK Reg 526-11.

b. Procedures for the payment of solatia to KATUSAs for loss or damage to their personal property (but not personal injury or death) incurred incident to service with the U.S. Army is detailed below.

10. CLAIMS OF KATUSAs. Claims filed by KATUSA soldiers for loss or damage to their personal property incurred incident to service with the U.S. Army but not associated with any personal injury or death should be considered for payment under USFK Reg 526-11 and not under the Personnel Claims Act. The claim, however, will be processed in a manner similar to that prescribed under Chapter 11, AR 27-20 in determining the value of claimed items.

a. Form of claim. Claims must be presented in writing within two years of the date the loss or damage was discovered. Any written demand for compensation from the U.S. submitted within two years of the date the loss or damage was discovered will constitute a claim. A claim will, if practicable, be submitted to the claims office serving the unit to which the KATUSA is assigned. If impracticable, the claim will be submitted through the chain of command to the nearest U.S. Army Claims Office.

b. Investigation. The claims office will coordinate with the unit commander to determine whether the loss or damage is valid and payable. The claims office receiving the claim will forward it, with a seven-paragraph memorandum, to USAFCS-K, for final action.

c. Payment. Payment of KATUSA claims will be from a centralized USFK fund cite. Payments may not exceed the maximum allowance for property damage set forth in USFK Reg 526-11. The USAFCS-K, has sole authority to settle claims brought by KATUSA. The settlement of a claim by the USAFCS-K is final and conclusive for all purposes.

Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, Eighth U.S. Army (EAJA-CSK), Unit #15236, APO AP 96205-5236. This publication is available electronically at: https://www-eusa-4.korea.army.mil

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Glossary

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GLOSSARY

Abbreviations

CJA	Claims Judge Advocate
KATUSA	Korean Augmentation to the United States Army
MDO(s)	Maneuver Damage Officer(s)
MSC	Major Subordinate Command
ROK	Republic of Korea
SOFA	Status of Forces Agreement
U.S.	United States (of America)
USAFCS-K	United States Armed Forces Claims Service-Korea
USFK	United States Forces Korea