

Headquarters
Eighth United States Army
Unit #15236
APO AP 96205-5236

Army in Korea
Regulation 27-20

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Legal Services

CLAIMS

***This regulation supersedes Eighth Army Regulation 27-20, 19 May 2004.**

FOR THE COMMANDING GENERAL:

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Summary. This regulation prescribes policies and procedures for the investigation, adjudication, and settlement of claims arising within the Republic of Korea (ROK), for which the Office of the Staff Judge Advocate, Eighth Army, has responsibility.

Applicability. This regulation applies to all Eighth Army major subordinate command (MSC) any assigned and attached units, and any units under the operational control of the Eighth Army.

Supplementation. Supplementation of this regulation and issuance of command and local forms is prohibited without prior approval of Staff Judge Advocate, Eighth Army, Unit #15236, APO AP 96205-5236.

Internal Control Provisions. This regulation does not contain management control checklists.

Forms. AK forms are available at http://8tharmy.korea.army.mil/g1_ag/.

Records Management. Records created as a result of processes prescribed by this regulation must be identified, maintained, and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information Management System (ARIMS) website at <https://www.arims.army.mil>.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA form 2028 (Recommended Changes to Publications and Blank Forms) to the Staff Judge Advocate, Eighth Army, Unit #15236, APO AP 96205-5236.

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Chapter 1 Introduction

1-1. Purpose

This regulation prescribes policies and procedures for the investigation, adjudication, and settlement of claims arising within the Republic of Korea (ROK), for which the Office of the Staff Judge Advocate, Eighth Army, has responsibility.

1-2. References

a. Required Publications

- (1) AR 27-20 (Claims)
- (2) DODI 5515.08 (Assignment of Claims Responsibility)
- (3) USFK Reg 1-27 (Settlement of Tort Claims and Non-Combat Activity Claims in Korea)
- (4) USFK Reg 526-11 (United States Forces Korea Relations with Korean Nationals Condolence Visits and Solatium Payments)
- (5) Article 139, UCMJ, 10 U.S.C. §939 (Redress of Injuries to Personal Property).

b. Related publication. Department of the Army Pamphlet 27-162 (Claims Procedures)

c. Required Forms

- (1) EA Form 547EK-E (Maneuver Damage Report)
- (2) DD Form 1840R (Loss or Damage, Notice)

1-3. Explanation of Abbreviations and Terms

Abbreviations and Terms used in this regulation are explained in the glossary.

Chapter 2 Responsibilities and Claim Procedures

2-1. Responsibilities

a. In addition to operating the area claims office, the Staff Judge Advocate, Eighth Army will assume the command claims responsibilities of US Armed Forces Claims Services, Korea as outlined in AR 27-20 and will -

- (1) Exercise claims settlement authority as specified in AR 27-20.
- (2) Supervise 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) Grant 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 for the claims offices within Korea and Japan.

(5) Implement appropriate claims policies for the claims offices within Korea and Japan.

(6) Prepare and publish command 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) Supervise and provide technical assistance to subordinate claims offices within Korea and Japan.

(10) Appoint Foreign Claims Commissions.

(11) Establish and maintain the Eighth Army Disaster Claims Standing Operating Procedure.

(12) 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 Military Claims Branch, Office of the Staff Judge Advocate, Eighth Army, 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 payments methods will be coordinated with the Chief, Military Claims Branch, Office of the Staff Judge Advocate, Eighth Army.

(13) 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 Foreign Claims Branch, Office of the Staff Judge Advocate, Eighth Army.

(14) Implement the Army's Article 139 claims program.

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

(1) Support disaster claims operations at the request of the Military Claims Branch, Office of the Staff Judge Advocate, Eighth Army.

(2) Ensure the Foreign Claims Branch, Office of the Staff Judge Advocate, Eighth Army, is notified of any Joint Chiefs of Staff directed or coordinated field training exercises 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) The unit commander must appoint a commissioned, warrant, or noncommissioned officer, or a qualified civilian employee to investigate claim incidents that involve the unit, on the request of the.

(b) Each battalion-sized unit in Eighth 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 the Foreign Claims Branch, Office of the Staff Judge Advocate, Eighth Army, within 2 working days of the appointment.

2-2. Investigating Claims

Claims must be investigated by a Claims Judge Advocate (CJA), claims personnel, or a unit claims officer.

a. The investigating 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 will not be required unless deemed necessary by the investigating 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 the Foreign Claims Branch, Office of the Staff Judge Advocate, Eighth Army, with the completed investigation.

2-3. 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 unit 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: http://8tharmy.korea.army.mil/g1_AG/. 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 to 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 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 Chief, Foreign Claims Branch, Office of the Staff Judge Advocate, Eighth Army, Unit #15311, 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 the unit movement reports may be used to provide more information or details of an incident (such as the opinion and observation of the MDO or sketches of the damage area.)

2-4. 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 DODI 5515.08.

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 act giving rise to the claim occurred or where the claimant resides. Claims based on maritime incidents or resulting from acts or omissions by a member of the Joint U.S. Military Affairs Group, Korea; Special U.S. Liaison Advisor, Korea; or other Department of Defense personnel not covered by the SOFA are outside the scope of the SOFA claims procedures and will be filed directly with the Office of the Staff Judge Advocate, Eighth U.S. Army.

c. The Staff Judge Advocate, Eighth U.S. Army will appoint Foreign Claims Commissions (FCCs) in accordance with AR 27-20, para. 10-6. The following permanent claims commissions are authorized, and its members will be appointed by the Staff Judge Advocate, Eighth Army:

(1) Foreign Claims Commission K90 (single member).

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

(3) Foreign Claims Commission K92 (three members).

d. A three-member FCC may make advance payments in non-scope SOFA claims, in amounts not exceeding \$10,000, subject to advance coordination with the U.S. Army Claims Service if the estimated total amount of the claim exceeds their authority. A claimant may request an advance payment from the Foreign Claims Branch, 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 2-49 are met.

2-5. Claims Arising Under The Personnel Claims Act

a. All claims arising in Korea under The Personnel Claims Act will be processed in accordance with AR 27-20 and DA PAM 27-162.

b. Personnel claims arising from the shipment of Organizational Clothing and Individual Equipment (OCIE): OCIE, formerly known as TA-50, is now authorized for transportation in household goods shipments. Although this type of property belongs to the Government, and not the individual soldier, field claims offices should take the necessary steps to prepare the file for transfer to USARCS (United States Army Claims Service) for recovery against the TSP. Accordingly, when a soldier submits a DD Form 1840R or other written notice of loss and damage which includes OCIE, the field office should do the following:

(1) Inform the soldier that he is not entitled to be paid for Government property lost or damaged in his shipment.

(2) Inform the soldier that he should report the loss or damage of his OCIE to his unit and to the Central Issue Facility (CIF).

(3) Whether the soldier's claim involves only OCIE items or both OCIE and household goods, create a separate claims file for the OCIE items and forward the file, along with a personnel claims memorandum and all necessary documentation, to USARCS for recovery. The OCIE claim file will be completely adjudicated, investigated, and substantiated by the originating field claims

office before forwarding the file. The originating office will dispatch the DD Form 1840R before the transfer. USARCS will submit a separate demand to the TSP for the OCIE, and will establish a procedure to transfer any amounts recovered from a TSP to the appropriate account.

(4) Coordinate with the soldier's unit and the CIF to insure that a Financial Liability Investigation of Property Loss (FLIPL, formerly known as a report of survey) for the OCIE is initiated, but suspended pending recovery against the TSP, and that the soldier is not held financially liable for property lost or damaged in shipment.

c. Personnel claims arising from damage at quarters: Cognizable claims under the Personnel Claims Act include those filed by military personnel for certain losses of personal property at authorized quarters. Authorized quarters include approved off-post quarters, but do not include off-post quarters obtained by individuals who are required or do maintain quarters on an installation. Claims for losses at such off-post quarters are not payable.

2-6. Claims Cognizable Under Article 139, Uniform Code of Military Justice

a. Claims filed by individuals, businesses, charities, or state or local governments, owning or lawfully possessing property that is wrongfully taken or willfully damaged or destroyed by military members of the Department of the Army, will be processed consistent with the standard procedures set forth in Chapter 9, AR 27-20.

b. For claims filed by Korean Nationals, the reviewing claims office shall coordinate with the Office of the Foreign Claims Branch, Staff Judge Advocate, Eighth Army, to prevent multiple filings and payments of the same claim.

Glossary

Section I. Abbreviations

AK	Army in Korea
AR	Army Regulation
CIF	Central Issue Facility
CJA	Claims Judge Advocate
DD	Department of Defense
FCC	Foreign Claims Commission
KATUSA	Korean Augmentation to the United States Army
MDO(s)	Maneuver Damage Officer(s)
MSC	Major Subordinate Command
OCIE	Organizational Clothing and Individual Equipment
ROK	Republic of Korea
SOFA	Status of Forces Agreement
U.S.	United States (of America)
USARCS	United States Army Claims Service
USFK	United States Forces Korea

Section II. Terms

This section has no entries.