ROYAL HONG KONG REGIMENT ORDINANCE

CHAPTER 199

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# CHAPTER 199

ROYAL HONG KONG REGIMENT ORDINANCE

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CHAPTER 199
ROYAL HONG KONG REGIMENT

To provide for the establishment of the Royal Hong Kong Regiment.

[18 December 1970.]

PART I
PRELIMINARY

1. This Ordinance may be cited as the Royal Hong Kong Regiment Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires—
   “active service” means, in addition to the meaning ascribed to it in section 225 of the Army Act, service when called out under section 13 or 14 of this Ordinance;
   “appointments” includes accoutrements and equipment of every kind other than clothing;
   “Army Act” means the Army Act, 1955;
   “Commanding Officer” means the Commanding Officer of the Regiment appointed by the Governor under this Ordinance;
   “enlist” and “enrol” have the same meaning;
   “Home Guard” means the Home Guard sub-unit of the Regiment;
   “member” means a warrant officer, non-commissioned officer or soldier of the Regiment;
   “officer” means a person holding a commission as an officer of the Regiment;
   “Order” means the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1978; (Added, 15 of 1981, s. 2)
   “public property” means any property belonging to the Government or held for the purposes of the Government;
   “Queen’s Regulations” means the Queen’s Regulations for the Army;
   “Regiment” means the Royal Hong Kong Regiment (The Volunteers);
   “Royal Warrant” means the Royal Warrant concerning pensions and other grants in respect of disablement or death due to service in the military forces during the 1914 World War and after 2 September 1939;
   “Service Commander” means the Service Commander of the Regiment specified under section 4;
“service property” means any property of the Regiment;
“training” means the training prescribed for officers or members on
duty, other than active service, pursuant to an order of the
Commanding Officer;
“volunteer” means an officer or member of the Regiment enlisted
under section 6.

PART II

CONSTITUTION AND FUNCTIONS OF REGIMENT

3. (1) The Governor may raise and maintain a regiment to
be known as the Royal Hong Kong Regiment (The Volunteers).
(2) The expenses of raising and maintaining the Regiment
shall be met from moneys provided by the Legislative Council.
(3) The Regiment shall be composed of officers and members
who shall be—
(a) persons employed on the permanent uniformed staff of the
Regiment;
(b) persons enlisted in the Regiment as volunteers;
(c) persons enrolled in the Regiment under section 15 of the
Compulsory Service Ordinance; and
(d) persons posted to the reserve of officers and members
established under this Ordinance. (Amended, 16 of 1973,
s. 2)

4. The Regiment shall be—
(a) under the supreme command of the Governor;
(b) under the operational command of the Service Com-
mander, who shall be the officer for the time being
discharging the duties of General or other Officer Com-
manding, Land Forces, Hong Kong; and
(c) under the executive command of the Commanding Officer,
who shall be responsible to the Service Commander and
ultimately to the Governor for such matters as may be
prescribed.

5. (1) A person of any nationality may hold a commission.
(2) An officer shall be commissioned by the Governor, on the
recommendation of the Service Commander, and no commission
shall be deemed to be vacated by the death or retirement from office
of the Governor by whom it was granted.

6. (1) The Governor may enlist a person of any nationality
as a volunteer in the Regiment.
(2) A person applying for enlistment in the Regiment shall comply with such requirements for enlistment as may be prescribed.

7. (1) The Regiment shall consist of—
   (a) a Regimental Headquarters sub-unit;
   (b) a Home Guard sub-unit; and
   (c) such other sub-units as the Governor may determine.

(2) The establishment of the Regiment shall be determined by the Governor.

8. The Regiment shall be employed in the defence of the Colony, the maintenance of public order and with such other duties as may be defined by the Governor.

9. (1) When an officer or member is serving with Her Majesty’s regular forces or is undergoing training with such forces, officers of Her Majesty’s regular forces shall have, in relation to an officer or member of the Regiment, such powers of command and punishment as they would have if they were officers of the same rank in the Regiment.

(2) Nothing in this section shall be deemed to authorize an officer of the Regiment to exercise any powers of punishment over members of Her Majesty’s regular forces.

10. (1) Subject to the provisions of this Ordinance, a volunteer may quit the Regiment upon—
   (a) giving to the Commanding Officer not less than 28 days’ notice in writing of his intention to quit the Regiment;
   (b) delivering up in good order (fair wear and tear excepted) any arms, appointments and clothing which are public property or service property and are in his possession; and
   (c) paying any money due from him under this Ordinance.

(2) A volunteer shall, if he quits the Regiment in accordance with subsection (1), thereupon be struck off the strength of the Regiment by the Commanding Officer.

(3) A volunteer may, if the Commanding Officer refuses to strike him off the strength of the Regiment, appeal to the Governor through the normal service channels.

(4) The Governor may, on an appeal under subsection (3), confirm the refusal of the Commanding Officer or order him to strike the volunteer off the strength of the Regiment.

(5) Notwithstanding any other provisions of this Ordinance, a volunteer shall be deemed, on enlistment, to have engaged himself to serve in the Regiment for such period as may be prescribed. A volunteer who quits, or is discharged from, the Regiment before the expiration of his period of service shall pay to the Commanding Officer such sum as he may order not exceeding $100.
(6) No sum shall be payable under subsection (5) by a volunteer who quits the Regiment for any cause which the Commanding Officer considers reasonable and bona fide.

(7) Subsection (5) shall not relieve a volunteer from the obligation to comply with the provisions of subsection (1) if he wishes to quit the Regiment.

(8) No volunteer shall quit the Regiment during any period when the Regiment or any part thereof is called out under section 13, except with the prior approval in writing of the Governor.

11. (1) An officer or member, other than a volunteer, who obtains permission, in such manner as may be prescribed, to quit the Regiment shall—

(a) deliver up in good order (fair wear and tear excepted) any arms, appointments and clothing which are public property or service property and are in his possession; and

(b) pay any money due from him under this Ordinance.

(2) An officer or member shall, if he quits the Regiment in accordance with subsection (1), thereupon be struck off the strength of the Regiment by the Commanding Officer.

12. The Governor may at any time—

(a) disband or discontinue the services of the Regiment or any part thereof; or

(b) dispense with the services of any officer or member.

PART III

CALLING OUT

13. (1) The Governor may by notice in the Gazette call out the Regiment or any part thereof on active service.

(2) Every officer or member so called out shall assemble at such place and at such time as may be directed by the Commanding Officer.

(3) An officer or member so called out shall be deemed to be called out from the time at which he reports at the place directed by the Commanding Officer. An officer or member who fails to report at the place and time so directed shall be liable to be charged with desertion unless, within 4 days, he satisfies the Commanding Officer that he had reasonable excuse for his failure to report as directed.

(4) An officer or member who has been called out shall remain called out until he is stood down from active service by order of the Governor.

(5) Notwithstanding subsection (4), the Commanding Officer may direct any officer or member who has been called out—
(a) to stand down from active service; and

(b) to report back for active service at such place and at such time as may be directed.

(6) On receipt of a direction under paragraph (a) of subsection (5), the officer or member shall be deemed to have ceased to be on active service and, if a direction is made under paragraph (b) of that subsection, the officer or member shall, on reporting back in accordance with such direction, be deemed to have been called out on active service in pursuance of a new notice by the Governor under subsection (1).

14. (1) The Service Commander may, with the prior approval of the Governor, order a limited call out of the Regiment or any part thereof or of any officer or member.

(2) Every officer or member so called out shall assemble at such place and at such time as may be directed by the Commanding Officer.

(3) An officer or member so called out shall be deemed to be called out from the time at which he reports at the place directed by the Commanding Officer.

(4) An officer or member who has been called out shall remain called out until he is stood down from active service by order of the Service Commander, with the prior approval of the Governor.

(5) Notwithstanding subsection (4), the Commanding Officer may direct any officer or member, who has been called out,—

(a) to stand down from active service; and

(b) to report back for active service at such place and at such time as may be directed.

(6) On receipt of a direction under paragraph (a) of subsection (5), the officer or member shall be deemed to have ceased to be on active service and, if a direction is made under paragraph (b) of that subsection, the officer or member shall, on reporting back in accordance with such direction, be deemed to have been called out on active service in pursuance of a new order under subsection (1).

15. (1) Where an officer or member is disabled and a Pensions Assessment Board is of the opinion that the disablement is due to an injury which—

(a) is attributable to service; or

(b) existed before or arose during service and has been and remains aggravated thereby,

the officer or member may be awarded a pension, gratuity, allowance or other payment in accordance with the provisions of the Order applicable to his rank and appropriate to the Regiment.

(2) Where an officer or member dies and a Pensions Assessment Board is of the opinion that the death was due to or hastened by—
(a) an injury which was attributable to service; or

(b) the aggravation by service of an injury which existed before or arose during service.

the dependants of the deceased officer or member may be awarded a pension, gratuity, allowance or other payment in accordance with the provisions of the Order applicable to the deceased's rank and appropriate to the Regiment.

(3) A pension, gratuity, allowance or other payment awarded under this section shall be calculated in accordance with the provisions of the Order in force at the date of the service in respect of which the pension, gratuity, allowance or other payment is awarded, irrespective of whether the officer or member was, at such time, in service.

(4) A pension, gratuity, allowance or other payment awarded under this section—

(a) shall be paid from moneys provided by the Legislative Council;

(b) shall not be assignable, transferable or liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever, other than a debt due to the Government.

(5) The Governor in Council may make regulations for all or any of the following matters—

(a) the establishment of a Pensions Assessment Board—

(i) with power to award a pension, gratuity, allowance or other payment under this section; and

(ii) for the purpose of exercising or performing such powers, duties or functions as may be conferred or imposed on it in connexion therewith;

(b) such modification of the Order as may be considered necessary for the purposes of this section;

(c) the establishment of a Pensions Appeal Tribunal to which an appeal may be made against any award or refusal of a pension, gratuity, allowance or other payment, or against any decision or assessment of the degree of disablement by a Pensions Assessment Board, or against any variation of such award, decision or assessment;

(d) the making, conduct and hearing of appeals;

(e) the submission and admissibility of evidence in appeals;

(f) the representation of the parties to an appeal and, in particular, the representation of an appellant who for any reason is unable to attend or conduct his appeal;

(g) the payment of travelling expenses, fees and allowances to members of a Pensions Appeal Tribunal, witnesses, appellants, and representatives and attendants of appellants;
(h) the payment of medical expenses reasonably incurred by an appellant for the purposes of an appeal;

(i) the recording and proving of decisions of a Pensions Appeal Tribunal;

(j) the appointment and payment of such staff as may be necessary to enable a Pensions Appeal Tribunal properly to fulfil its functions;

(k) generally for the better carrying out of the provisions of this section.

(6) For the purposes of this section—

"dependant" shall be construed in the same way as in the Order:

Provided that "wife", "widow" and "child" shall have the meanings assigned to them in section 18(3) of the Pensions Ordinance;

"injury" includes wound and disease;

"service" means service with the Regiment when on active service or under training.

(Replaced, 16 of 1973, s. 3. Amended, 15 of 1981, s. 2)

16. An officer or member who sustains injuries or contracts an illness, when on active service or in training, shall—

(a) be granted such free medical and hospital treatment as may be prescribed or, if it is not prescribed, as may be directed by the Commanding Officer in Routine Orders;

(b) during the period of disability or illness, receive the full pay which he is eligible to receive while undergoing training, until he is granted a pension, gratuity, allowance or other payment under section 15. (Amended, 16 of 1973, s. 4)

PART IV

GOVERNMENT AND DISCIPLINE

17. The Army Act and the Queen's Regulations shall, in so far as this Ordinance does not so provide, apply in relation to the administration, discipline, trial and punishment of—

(a) officers and members on the permanent staff at all times; and

(b) other officers and members when on active service or under training,

as it applies to persons subject to military law under that Act and holding a corresponding rank.

18. (1) An officer or member who is to be tried by court-martial may be brought before a court-martial convened by the Service Commander.
2. The Commanding Officer may order an officer or member to attend at any time and place in the Colony for the purpose of any court-martial or any board of inquiry or for any other purpose which may seem proper to the Commanding Officer.

3. The Commanding Officer may in writing authorize a police officer not below the rank of inspector to arrest and hand over to the Commanding Officer, or to such person as may be authorized by him to act on his behalf, any officer or member who refuses or neglects to comply with an order given under subsection (2).

19. An officer or member convicted by court-martial may, whether or not he has pleaded guilty at his trial, appeal to the Court of Appeal against conviction and sentence as if he had been convicted by the District Court.

20. (1) The Commanding Officer may discharge from the Regiment an officer or member, who is not on active service, for any offence, misconduct or other cause.

(2) An officer or member who is aggrieved by his discharge under subsection (1) may appeal to the Governor, who may cancel or confirm the discharge or give such other directions with reference thereto as he may think fit.

(3) The Commanding Officer may deal summarily with a charge in respect of any offence for which he may award any summary punishment.

(4) An officer or member who, when on duty with the Regiment or when wearing the uniform of the Regiment, commits any offence against this Ordinance, may be placed under arrest by an officer or member of equal or superior rank.

(5) An officer or member shall not be kept under arrest under subsection (4) for a period longer than that during which he would have been on duty with the Regiment or would have been in uniform.

(6) The release of an officer or member from arrest under this section shall not prejudice any subsequent disciplinary proceedings under this section.

(7) An arrest under this section shall be forthwith reported to the Commanding Officer.

21. Any officer or member who without reasonable excuse (the proof whereof shall lie upon him) fails to report for duty at any time or place when lawfully ordered so to do, or leaves such duty before he is permitted to do so, shall be guilty of an offence.

22. (1) Without prejudice to the powers of the Commanding Officer to deal summarily with offences, any officer or member who—
(a) fails without reasonable excuse to attend the training
which he is required to attend; or

(b) fails to carry out his training diligently or to discharge any
duty lawfully assigned to him in the course of such
training.

shall be guilty of an offence.

(2) No prosecution for an offence against this section shall be
commenced without the consent of the Commanding Officer.

(3) An officer or member shall not be liable to prosecution for
an offence against this section if the offence is committed in the year
during which he attains the prescribed age of compulsory retirement.

(4) A volunteer, other than a person referred to in subsection (3), who quits the Regiment without completing the prescribed
training in any year shall forfeit the sum of $100:

Provided that the Commanding Officer may exempt from
liability any volunteer who in his opinion has quit the Regiment for
a reasonable and bona fide cause and used reasonable diligence in his
training before he quit the Regiment.

23. (1) An officer or member shall have a right to present his
complaint with regard to any matter concerning the Regiment to the
Service Commander through the Commanding Officer.

(2) An officer or member who is not satisfied with the manner
in which a complaint made by him under subsection (1) has been
dealt with, may require the Service Commander to forward his
complaint to the Governor.

24. (1) Any person who wilfully obstructs an officer or
member in the performance of his duty under this Ordinance shall
be guilty of an offence.

(2) Any employer who, without reasonable excuse—

(a) prevents an officer or member who is his employee from
performing any duty required of the officer or member
under this Ordinance;

(b) reduces, or makes any deduction from, the salary or wages
of such an employee by reason of the performance by the
employee of any such duty, otherwise than as is permitted
by subsection (3);

(c) dismisses the employee, by reason of the performance by
the employee of any such duty, otherwise than in accord-
ance with the conditions of his contract of employment.

shall be guilty of an offence.

(3) Notwithstanding subsection (2) an employer may make
deductions from the salary or wages of an employee in respect of any
period when the employee is absent from his employment on active
service or under training.
Penalty.

25. Any person who is guilty of an offence against section 21, 22 or 24 shall be liable on conviction to a fine of $1,000.

PART V

SERVICE PROPERY

26. (1) Without prejudice to the provisions of section 44 of the Army Act, any officer or member who fraudulently misapplies any public or service property shall be guilty of an offence and shall be liable on conviction to a fine of $1,000.

(2) The court may order a person convicted of an offence under this section to pay to the Regiment the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

27. (1) Without prejudice to the provisions of section 46 of the Army Act, any officer or member who fails to deliver up in good condition (fair wear and tear excepted) any public or service property in his possession when lawfully required to do so shall be guilty of an offence and shall be liable on conviction to a fine of $1,000.

(2) The court may order a person convicted of an offence under this section to pay to the Regiment the value of the public or service property in respect of which he is convicted, as assessed by the Commanding Officer.

28. (1) The ownership of all service property, and the administration thereof, shall vest in the Commanding Officer, who shall be deemed to be a corporation sole with perpetual succession for this purpose.

(2) For the purposes of subsection (1), the Commander Officer may—

(a) recover, under section 30, any subscription or other money due from an officer or member; and

(b) enter into a contract or execute a conveyance of property.

PART VI

MISCELLANEOUS

29. The Army Act and the Queen’s Regulations, in so far as they apply to the Regiment and to officers and members, shall be construed—

(a) so that any power or duty vested in or imposed upon the Army Board of the Defence Council by the Army Act or the Queen’s Regulations shall be vested in, exercised or performed by, the Governor:
(b) so that references in the Army Act or the Queen’s Regulations to the Secretary of State or the Defence Council shall be references to the Governor; and

(c) with such adaptations, modifications or exceptions consistent with this Ordinance as may be necessary.

30. (1) Any money due from an officer or member under this Ordinance may be recovered summarily as a civil debt.

(2) In proceedings under subsection (1) the complaint may be in the name of the Commanding Officer, who may appoint any person to conduct the proceedings.

31. (1) An officer or member shall, on his enlistment in the Regiment, or as soon afterwards as may be, whether or not he was a member of the former Hong Kong Volunteer Defence Corps or the former Royal Hong Kong Defence Force, make the appropriate form of oath or declaration prescribed in subsection (2).

(2) The form of oath or declaration shall be—

(a) for an officer or member who is a British subject—

“I swear [declare] that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law, and that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Regiment Ordinance, Chapter 199.”; and

(b) for an officer or member who is not a British subject—

“I swear [declare] that I will faithfully serve as an officer (or a member) in accordance with the provisions of the Royal Hong Kong Regiment Ordinance, Chapter 199.”.

(3) An oath or declaration under this section shall be made before an officer or a justice of the peace.

32. (1) The Governor in Council may make regulations providing for the constitution, general government, discipline and training of the Regiment and in particular, but without prejudice to the generality hereof, may make regulations providing for—

(a) the terms of service, the appointment, duties, rank, promotion, seniority, transfer, leave, resignation and release from service of officers;

(b) the enlistment, rank, posting, transfer, leave, promotion, reduction, discharge, dismissal and terms of service of members;

(c) the establishment of a reserve of officers and members and matters relating thereto;

(d) standards of efficiency of officers and members;
(e) offences and the officers who may deal with offenders and award punishment;

(f) the hospital and medical treatment of officers and members;

(g) anything which under this Ordinance is to be or may be prescribed; and

(h) generally for the better carrying out of the provisions of this Ordinance.

(2) Notwithstanding subsection (1), the Service Commander may, with the approval of the Governor, make regulations for the Regiment for the purposes of this Ordinance, provided that such regulations are not inconsistent with any regulations made under subsection (1).

33. The Commanding Officer may, with the approval of the Service Commander, make such standing orders of a routine nature as are necessary for the purposes of this Ordinance.

34. The Hong Kong Regiment, raised and maintained as a military unit of the Royal Hong Kong Defence Force under the repealed Royal Hong Kong Defence Force Ordinance, shall be deemed to be the Royal Hong Kong Regiment for the purposes of this Ordinance as if it were raised and maintained under this Ordinance.