

HR8. Defense Reservist's Leave Policy

Policy Objective

To ensure that members of the Defence Reserve Service employed by the Shire are able to access a reasonable amount of additional leave for that purpose.

Policy Statement

It is recognised that the Australian Defence Reserves are an important part of our national defence strategy and that support to the Defence Reserves is essential to their continued effectiveness.

This policy applies to all employees that are Reservists and undertake training and/or military service with the Australian Defence Forces.

Background

1. The Defence Reserve Service (Protection) Act 2001 (the Act) provides that

“**Defence Service**” means service in a part of the Reserves and includes training.

Reserve service must be continuous full-time defence service or other defence service (e.g. short periods of defence reserve service which may include training) and must not prejudicially affect employees' entitlements or other conditions of employment.

The Act does not invoke any obligation on employers to pay the Reservists' remuneration in respect of the civilian employment whilst absence on defence service or to provide make-up pay in circumstances where the Defence Force pay is lower than the employees' public sector pay. Any entitlements relating to Reserve service (including training) and/or military service contained in industrial awards or agreements will continue to apply, subject to them satisfying the provisions of the Act.

There is no scope for employers to ask employees to limit the number of training courses per year or to take less reserve service leave as this is in breach of the Act. Section 17 of the Act draws no distinction between essential and non-essential training or service and specifically contemplates a reservist “volunteering” for service of training.

There is no discretion under the Act for employers to refuse requests for reserve service or training leave, irrespective of inconvenience to the employer or the nonessential nature of the leave. Employers are only entitled to verify that the leave request relates to the actual reserve service training.

2. Employer Support Payment Scheme

In 2001, the Commonwealth Government introduced legislation to enhance and encourage Reserve personnel. One of the key features of the new Reserve legislation has been the introduction of the employer Support Payment (ESP). This payment is available to employers who release Reservists for more than two weeks per year.

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The Scheme involves payment of an amount equivalent to the Average Weekly full-time Ordinary Time Earnings (AWOTE) as calculated by the Australian Bureau of Statistics, and is in recognition of the costs and/or disruption to employers caused as a consequence of releasing a reservist for a period of continuous Defence service.

Service that is considered under the Employer Support Payment is:

Ordinary Reserve Service, and

Voluntary continuous full-time service, if the relevant Service Chief (that is the Chief of Navy, Army or Air Force) or their delegates have designated the service as protected service.

Under the Scheme an employer is eligible to receive the ESP once a Reservist has completed 14 days continuous Reserve service in any financial year. The qualifying period can be undertaken as a single period or as multiple periods of continuous Defence service, as long as each period of continuous Defence service is a minimum of five consecutive days.

Further details of the operation of the Australian Defence Force Reserves Employer Support Payment (ESP) Scheme can be obtained from the Defence Reserve Support Council on 1800 803 485 or on their website www.defence.gov.au/reserves

Procedure

1. Employees applying for Defence Reservists Leave are required to provide evidence from the Defence Force of the extent of the leave requirement.
2. Employees wishing to take Defence Reservist Leave are to provide reasonable notification to the Organisation. Generally this should be three months prior to the period of leave required.
3. At the discretion of the Chief Executive Officer, paid leave may be granted to employees who are members of the Defence Forces Reserves for the purpose of participating in training camps, or equivalent continuous duty. This leave will be in addition to the use of annual leave entitlements, however employees electing not to use annual or long service leave credits for defence service and/or military service shall be granted leave without pay.
4. Leave for Reservists is typically 4 weeks (20 working days or 28 calendar days) leave each year although an additional 2 weeks leave to allow for a Reservists attendance at recruit/initial employment training will be granted where required.
5. Where the employer agrees to make payment for Defence Reservist Leave it will be paid on the basis of the difference between the employee's weekly salary (calculated on the same basis as annual leave provisions) and the remuneration received from the Armed Services. Should the amount received from the Armed Services be greater than the normal weekly salary, no additional payments will be made by the Organisation. Superannuation contributions will be based on the employee's normal weekly salary.
6. "Continuous full-time service" (excluding any time taken on annual or long service leave), will not count for annual or personal leave, as the employees contract is temporarily suspended. These entitlements will accrue with the relevant Defence Force during the period of service.

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For the periods of defence service other than continuous full-time defence service, employees' entitlements will continue to accrue with their employer.

7. Full time military service will count as service for long service leave purposes.
8. Unpaid leave will be treated as leave without pay.
9. The period of military service will count as service for increment progression and increments falling due whilst the employee is absent should be processed as normal.
10. An employee's contract is suspended whilst undertaking continuous full-time defence service. In order to preserve employment entitlements, an employee must apply to resume duty as soon as reasonably practicable and not more than 30 days after the completion of the period of military service.
11. Staff taking Defence Reservists Leave are required to pay normal rental during their absence should they have access to employee housing.
12. The Employer will keep Reservist employees who are undertaking peacetime training or development informed of critical development in the workplace e.g. organisational change, salary related matters (enterprise or workplace agreement negotiations)

Responsibility

The Chief Executive Officer is required to approve Defence Reservist Leave and ensure appropriate documentation is supplied by the employee.

Policy Reviewed October 2020