

DEFENCE FORCE RESERVES

POLICY OBJECTIVE

- *Reservists employed in the Western Australian public sector are provided leave for the purposes of Defence service.*
- *Employment entitlements of Reservists are appropriately treated during periods of Defence service.*

POLICY PRINCIPLES

- Reservists are recognised as integral to the Australian Defence Force and its activities.
- Reservists are supported in their activities as members of the Reserves.
- Objectives and provisions of the *Defence Reserve Service (Protection) Act 2001* (Cth) are upheld.

APPLICATION

- All Public Sector Agencies

GUIDELINES

Interaction with Awards and Agreements

Entitlements relating to Defence service, Reserves training leave and/or military leave provided for in awards and/or agreements continue to apply, subject to compliance with this Policy Statement.

Reservists are to receive the greater of the entitlements under either this Policy Statement or relevant awards and/or agreements.

Definitions

“Act” means the *Defence Reserve Service (Protection) Act 2001*.

“Ordinary Reserve service” means service (including training) in a part of the Reserves.

“Continuous full-time service (CFTS)” means full-time service in the regular ADF which is voluntarily rendered by Reservists¹.

“Defence service” means both ordinary Reserve service and/or CFTS.

“Reserves” means the Naval Reserve, the Army Reserve and the Air Force Reserve as prescribed in the *Defence Act 1903* (Cth).

“Reservists” mean members of the Reserves.

¹ Reservists taking leave for the purposes of continuous full-time service are treated as full-time members of the regular Defence Force, and receive Defence Force salaries and employment conditions applicable to permanent members.

Defence Reserve Service (Protection) Act 2001

The Act provides for entitlements and prohibitions which apply in relation to people who are rendering, or have rendered Defence service as members of the Reserves.

The Act binds Government employers; however it also provides that the State cannot be prosecuted for breaches of the Act. Despite this exemption, the Government's position is to uphold the objectives of the Act and comply with its provisions.

Leave

The Act provides that Reservists are entitled to leave for the purposes of Defence service.

Chief executive officers may approve all applications for Defence service. Applicants are to provide evidence from the Australian Defence Force (ADF) of leave requirements.

In circumstances where the release of Reservists for Defence service creates significant difficulties for agencies, discussion with the ADF can occur to discuss alternative periods for service.

It is Government policy that employees are provided with a separate paid leave entitlement to participate in Ordinary Reserve Service. Any leave in addition to the paid leave entitlement (i.e. "additional leave") is taken on a basis determined by individual agencies.

Paid Leave Entitlement

Reservists are entitled to four weeks paid leave per annum for the purposes of Defence service.

Reservists in their first year of Reserves' membership are entitled to an additional two weeks for the purposes of recruitment and/or initial training.

Part-time employees who are members of the Reserves are entitled to paid leave, proportionate to the hours worked of full-time employees.

Additional Leave

Agencies are advised to develop internal policies for the purposes of identifying the basis upon which additional leave is taken. Policies should give consideration:

- fairness and equity within an agency;
- flow-on implications across an agency;
- whether the additional leave is for the purposes of CFTS in which case Reservists are treated as full-time employees by the ADF;
- funds available through the Commonwealth, as outline below;
- budgetary implications; and
- Any other aspect pertinent to the nature of the agency's environment.

Options available to agencies in respect of additional leave are:

- paid leave;

- leave on a make-up pay basis²;
- unpaid leave; and/or
- any configuration of the above.

For example, an agency may implement a policy which provides for additional leave up to a maximum of two weeks on a make-up pay basis, and any remaining additional leave to be taken on a leave without pay basis.

Reservists may elect to utilise annual or long service leave credits for the purposes of additional leave for Defence service. However, agencies cannot make it a requirement to do so for approval of the leave.

Employment Conditions

For the purposes of the treatment of employment conditions, distinction is drawn between ordinary Reserve service and CFTS.

Contracts of employment and continuity of service of civilian employment are unbroken during periods of ordinary Reserve service and accruals towards all employment entitlements continue.

In respect of CFTS, contracts of employment are unbroken, however service is considered continuous for the purposes of incremental progression and long service leave accrual only.

Annual leave and sick leave entitlements will accrue with the ADF during periods of CFTS.

The conditions associated with CFTS are consistent with those established in 1965 for employees required to undertake two years National Service Training under the National Service Act. A copy of Circular No. 21 of 1965 – Employment Conditions – National Service Trainees, is at **Attachment A**.

While Circular No. 21 of 1965 is redundant, its provisions established the standard for the treatment of employment conditions for full-time Defence/Military service and have been applied in subsequent years.

If Reservists elect to use annual leave and/or long service leave credits for the purposes of defence service or part thereof, this leave is to be treated as normal paid leave.

A summary of the effect of Defence service on employment entitlements is at **Attachment B**.

Superannuation

The Government Employees Superannuation Board (GESB) can provide advice to members concerning the effect of defence service on their superannuation.

GESB can provide advice on implications on contributions made by members and/or employers during defence service, the effect on members' insurance policies and

² Make-up pay is where the employer elects to pay the difference between the reserve pay paid by the Federal Government and the employee's substantive rate of pay.

other relevant matters dependent on which scheme the member is covered by. All enquiries regarding superannuation are to be directed to [GESB](#) or phone 134372.

Employer Support Payment Scheme (ESP)

The ESP was introduced by the Federal Government to provide payments to eligible employers and the self-employed to assist in offsetting the cost of releasing Reservists for Defence service.

The ESP is paid at a set weekly rate, established for each 12 months, irrespective of a Reservist's pay rate. There are no restrictions on the manner in which employers use the payments. Employers are required to meet specified criteria in order to be eligible for the ESP.

Details of the financial benefits available to employers under the ESP are available from the Defence Reserve Support Council's website at <http://www.defencereserves.com/asp/home.aspx> or on telephone 1800 803 485.

Agencies are encouraged to access the financial support provided by the ESP. The basis upon which leave entitlements of Reservists is paid will be reviewed if the ESP funding and associated arrangements are varied.

REVIEW DATE

August 2013

RELATED INFORMATION

Relevant awards and industrial agreements.

The *Defence Reserve Service (Protection) Act 2001* and the associated regulations can be found at www.comlaw.gov.au.

Attachment A

Circular No 21 of 1965 – Employment Conditions – National Service Trainees

WARNING: Archived document. Please note this Circular is no longer in effect. It is provided for historical and information purposes only.

Further to my circular No. 1 of 1965, I would advise that the following conditions will apply to all employees required to undertake two years National Service Training under the provisions of the National Services Act, 1951-65.

1. Leave is to be taken without pay for the whole period of National Service Training. Employees who are required to render service should submit documentary evidence to the officer in charge and must be released from duty for the full period involved.
2. Increments: The period of National Service will count as service for incremental advancement purposes. Increments falling due while the employee is absent on National Service should be processed in the normal way, but without the necessity for reports on conduct and efficiency.
3. Annual Recreation leave:
 - a. Accrual during national Service – National service will not count as service for annual leave purposes.
 - b. Accrued as at date of call up – an employee who has an annual leave credit at the date of call up may elect to take leave in conjunction with the commencement of National Service or retain it for use after the resumption of duty.

It is suggested that employees who are customarily permitted to take annual recreation leave in anticipation of a full year of service and who are eligible for call up during the year, be rostered for annual leave late in the year when results of the National Service ballot would be known.

4. Sick Leave – national Service will not count as service for sick leave purposes. Normal credits will recommence on the due date after resumption of duty and be added to credits accrued prior to the period of service.
5. Long service Leave – Absence on national Service will count as service for long service leave purposes.
6. Superannuation – Employees contributing to the Superannuation or Provident Fund will be required to meet their own contributions during the whole period of absence. Suitable arrangements should be made between the employee and his Department in regard to the method of payment. It is to be noted that the relevant legislation specifies that the employee shall “during or within one month after the expiration of the period of absence on defence service, make the contributions that he would have been required to make.

7. Resumption of duty – In order to preserve his employment rights, an employee must resume duty with his employer as soon as reasonably practicable and not more than thirty days after the completion of a period of National Service Training.

Should any query arise on any matter not covered by the circular, please ring this office.

C G Reeve

Secretary for Labour

DEFENCE FORCE RESERVES

Attachment B

DEFENCE FORCE RESERVES – AFFECT ON EMPLOYMENT ENTITLEMENTS

Provision	Ordinary Reserves Service	Continuous Fulltime Service ³
Contract of Employment	Unbroken	Unbroken
Continuity of Service	Unbroken	Unbroken
Annual Increments	Unaffected	Unaffected
Sick Leave Accrual	Unaffected	Does not count as service
Annual Leave Accrual	Unaffected	Does not count as service
Long Service Leave Accrual	Unaffected	Unaffected

Note: Where employees utilise existing annual leave or long service leave credits for Defence service in excess of the paid entitlement, the period is to be treated as normal paid leave.

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³ Circular No 21 of 1965 – Employment Conditions – National Service Trainees (See Attachment A)