

NSW Department of Education Military Leave Guidelines

These guidelines have been developed by Industrial Relations with the assistance of the Employer Support and Service Protection Directorate of the Reserve and Youth Division, Department of Defence.

PURPOSE AND SCOPE

The NSW Department of Education (the Department) is committed to supporting employees who are members of the Australian Defence Force (ADF) Reserves. The scope of these Guidelines covers all employee Reservists of the Department who have formally advised in writing to their manager/principal that they are members of the ADF Reserves.

The Department recognises that ADF Reserve service is of national importance. It recognises that ADF Reserve service, training and experience provides valuable personal development for the employee, which will have a flow on benefit to the Department.

In accordance with section 17 of the *Defence Reserve Service (Protection) Act 2001*, an employer must not hinder or prevent a Reservist from volunteering to render defence service or rendering defence service.

There is no legal obligation for employers to pay employees while they are absent on ADF Reserve service, including training. However, the Department provides paid leave and top up pay in some instances to assist employee Reservists as well as leave without pay for other ADF Reserve service.

There are two categories of ADF Reserve service that an ADF Reserve member can undertake:

- (i) Ordinary ADF Reserve service, which may include:
 - Initial recruit training
 - Compulsory annual training
 - Attendance at schools, classes or courses of instruction
 - Compulsory parades,
 - Continuous Full Time Service (CFTS); and

- (ii) Compulsory ADF Reserve service, in the form of a call out in accordance with the respective section of the *Defence Act 1903*.

DEFINITIONS

“*Australian Defence Force*” (ADF) Reserves means the Naval Reserve, Army Reserve or Air Force Reserve of Australia.

“*Call out*” is when the Governor-General makes an order in circumstances (whether within or outside Australia) which involves any or more of the following under section 28 of the *Defence Act 1903*:

- war or warlike operations;
- a time of defence emergency;
- defence preparation;
- peacekeeping or peace enforcement;
- assistance to Commonwealth, State, Territory or foreign government authorities and agencies in matters involving Australia’s national security or affecting Australian defence interests;
- support to community activities of national or international significance;
- civil aid, humanitarian assistance, medical or civil emergency or disaster relief.

“*Continuous Full Time Service*” (CFTS) means a period of continuous ADF Reserve service, with a defined start and finish date, that is rendered by an ADF Reserve member.

“*Military leave year*” means a 12 month period starting from 1 July in a given year and ending on 30 June in the following year.

“*Military leave with Top up pay*” is for the ADF Reserve service that is granted in excess of the annual paid military leave entitlement. The Reservist will be entitled to top up pay which is the difference between the Reservist’s pay paid by the Commonwealth Department of Defence and what they would ordinarily have received if they were at work.

“*Paid Military leave*” means leave granted on full pay each financial year as an annual entitlement to Reservists for the purpose of rendering certain types of ADF Reserve service. This includes:

- initial recruit training
- compulsory annual training
- attendance at schools, classes or courses of instruction,
- compulsory parades, and
- Call out

“*Unpaid Military leave*” means full time or part time ADF Reserve service, including CFTS, that is not covered by the annual entitlement of “Paid Military leave”. This ADF Reserve service may be taken as leave without pay. A Reservist may also elect to use other forms of accrued leave for the purpose of undertaking this ADF Reserve service.

“Reservist” means a serving ADF Reserve member who is also an employee of the Department of Education.

RESERVE SERVICE COMMITMENT

The annual commitment of an individual Reservist will vary significantly depending upon their service, specialisation, experience and skill set. This can affect the frequency and duration of service they undertake and may potentially impact upon the amount of notice that they are able to provide.

Reservists should establish with their manager/principal at the beginning of each year what their anticipated commitments will be over the subsequent six to twelve months. This will provide the workplace/school with as much advance notice as possible so that they can take steps to accommodate the expected absence. Even where specific dates are not yet known, Reservists are expected to forecast to the best of their ability in writing, their likely Defence commitment.

Evidence in writing of attendance at ADF Reserve service is also required to be provided to the manager/principal at the completion of the approved leave period. See Required Documentation / Evidence of Attendance section.

Reservists should refer to the [Defence Reserves Support](#) website which includes information on the rights and responsibilities of a Defence Reservist.

For specific ADF Reserve service questions please contact the Defence Reserves Support on 1800 DEFENCE (1800 333 362).

For specific questions relating to the *Defence Reserve Service Protection Act 2001*, please contact the Employer Support and Service Protection Directorate on 1800 333 362 or orsp@defence.gov.au.

LEAVE ENTITLEMENT

School teachers

Annual entitlement – paid military leave

In any period of 12 months commencing on 1 July each year the following military leave on full pay may be granted for ADF Reserve service such as attendance at compulsory annual training, at a school, class, courses of instruction, compulsory parades conducted by the Reservist's unit or call out:

- for members of the Navy Reserve – 26 working days on full pay
- for members of the Army Reserve – 28 working days on full pay
- for members of the Air Force Reserve – 32 working days on full pay

Military leave with top up pay

Where military leave is required for a Reservist to attend compulsory annual training, at a school, class, courses of instruction, compulsory parades or callout for a period that exceeds the annual entitlement of paid military leave, teachers may be granted military leave with top up pay.

Please note: Eligibility for paid military leave and top up pay for training and courses refers to attendance at annual mandatory training delivered by the ADF. Some examples of this annual training include security awareness, ethics and fraud awareness, equity and diversity awareness and WHS awareness. Access to paid military leave and top up pay does not apply to training undertaken during periods of CFTS.

Unpaid Military leave

From time to time the ADF requires ongoing support by a Reservist to perform the duties of ADF positions. Where a Reservist seeks leave for full time or part time ADF Reserve service that is not covered by the annual entitlement, teachers will be granted leave without pay. This includes when a Reservist undertakes any type of CFTS. Applications for this leave will be assessed on a case-by-case basis.

Attendance at medical examinations

A Reservist may be granted special leave of up to 1 day to attend medical examinations and tests required by the Australian Defence Forces.

Please note: When the absence of a teacher on ADF Reserve service is going to cause operational difficulties, the Department has the right to contact the ADF to discuss possible alternatives for this service. The provisions of the Defence Reserve (Protection) Act 2011 will be taken into account when negotiating possible alternative options for rendering the ADF Reserve service commitments.

Public Servants / School Administrative and Support Staff

Annual entitlement – paid military leave

In any period of 12 months commencing on 1 July each year the following military leave on full pay may be granted for ADF Reserve service such as attendance at compulsory annual training, at a school, class, courses of instruction, compulsory parades conducted by the Reservist's unit or call out:

- for members of the Navy Reserve – 24 working days on full pay
- for members of the Army Reserve – 24 working days on full pay
- for members of the Air Force Reserve – 28 working days on full pay

Military leave with top up pay

Where additional military leave is required for a Reservist to attend compulsory annual training, at a school, class, courses of instruction, compulsory parades or callout for a period that exceeds the annual entitlement of paid leave military leave, employees may be granted military leave with top up pay.

Please note: *Eligibility for paid military leave and top up pay for training and courses refers to attendance at annual mandatory training delivered by the ADF. Some examples of this annual training include security awareness, ethics and fraud awareness, equity and diversity awareness and WHS awareness. Access to paid military leave and top up pay does not apply to training undertaken during periods of CFTS.*

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REQUIRED DOCUMENTATION / EVIDENCE OF ATTENDANCE

Leave applications must be supported by written evidence of the requirement to undertake ADF Reserve service. With the exception of CFTS, applications for ADF Reserve service **must** be provided on the ADF approved AE380, *Tri-Service Notice of ADF Reserve service* prior to the leave being taken – a link to this form is provided below.

Reservists seeking leave for CFTS are required to provide [written notification](#) in accordance with ADF policy.

The AE380 is used by the Navy, Army and Air Force and comprises of two parts:

- Part A – provides the details of the intended ADF Reserve service; and
- Part B – provides confirmation that the ADF Reserve service was completed.

The AE380 form must be provided for ADF Reserve service applications prior to the commencement date.

Where requested by the manager or principal, Part B of the AE380 form must also be provided after the period of leave to confirm that the ADF Reserve service was completed.

Where top up pay is to be provided, a payslip verifying the amount of military payments received must be submitted. This will allow for the correct amount of top up pay to be processed in a timely manner.

It is the responsibility of the Reservist to provide the above documentation. Until such time as the AE380 form is provided for applications of military leave with pay and the military payslip is provided for military leave with top up pay, Reservists will be granted leave without pay pending receipt of the required documentation.

EFFECT ON ENTITLEMENTS

Leave without pay

When on leave without pay for military purposes the leave does not count as service for the accrual of increments or leave, including teacher vacation accruals and annual leave loading.

Once an employee has completed 10 years of actual service, any period of leave without pay for military purposes that is less than 6 months counts as service. A period of leave without pay exceeding six months does not count as service for extended leave purposes.

Superannuation

When a Reservist is on paid military leave and military leave with top up pay, the Department will continue to make superannuation guarantee contributions on the rate of pay the employee would ordinarily receive if they were at work. For Reservists in a defined benefit scheme, there will be no impact on the employer-financed benefit payable as a result of military leave or military leave with top up pay.

ACTIONS FOR ELIGIBLE EMPLOYEES

Reservists should read these guidelines and discuss the planned or unplanned ADF Reserve service leave dates with their manager/principal as soon as the commitment is known. Even where specific dates are not yet known, Reservists are expected to forecast to the best of their ability in writing, their likely Defence commitment.

Employees with approved ADF Reserve service leave are to submit a copy of the ADF Reserve service notice AE380 with their leave application (specifying either paid military leave or leave without pay) to their manager/principal.

The employee is responsible to monitor any deductions from their pay when normal pay arrangements could be affected by ADF Reserve service.

RELEVANT DOCUMENTS / REFERENCES

The documents and references that should be read in conjunction with these guidelines include:

- [*Crown Employees \(Public Service Conditions of Employment\) Reviewed Award 2009*](#)
- [*Public Service Industrial Relations Guide v2.0 January 2019*](#)
- [*Teachers' Handbook*](#)
- [*Defence Act 1903*](#)
- [*Defence Reserve Service \(Protection\) Act 2001*](#)
- [*ADF Employer Support Payment Scheme*](#)

FOR FURTHER ASSISTANCE

These guidelines have been developed by Industrial Relations with the assistance of the Employer Support and Service Protection Directorate, Department of Defence.

Any enquiries regarding the Department's leave provisions within these guidelines should be directed to Industrial Relations on (02) 7814 3510 or via [email](#).

Any enquiries about payment for or the granting of military leave should be directed to EDConnect Shared Services HR on telephone 1300 32 32 32 (options 3>1>1) or by submitting an [online query](#).

For specific ADF Reserve service questions, please visit the [Defence Reserves Support](#) website or phone them on 1800 333 362.

For specific questions relating to the *Defence Reserve Service Protection Act 2001*, please contact the Employer Support and Service Protection Directorate by phone on 1800 333 362 or orsp@defence.gov.au.

Union members may also like to seek the advice of their Union.