



DEFENCE RESERVES SUPPORT

Supporting Australia's Reservists and their Employers

OFFICE OF RESERVE SERVICE PROTECTION

Protecting Reservists. Protecting Australia.

In 2001, the Australian Government introduced legislation that provided employment and education protection to members of the Australian Defence Force (ADF) Reserves.

The Defence Reserve Service (Protection) Act 2001 (the Act) makes it an offence for an employer to discriminate against, disadvantage or dismiss an employee or prospective employee for rendering ADF Reserve service. Protections apply to contractors, partners and in certain circumstances to students enrolled in a course of instruction at an Australian education institution. The Act makes it mandatory for an ADF Reserve member to be released when required to render ADF Reserve service. Releasing an employee is also mandatory for the training necessary to undertake ADF Reserve service and for attending appointments associated with the ADF Reserve Recruitment process.

The Defence Reserve Service (Protection) Regulations 2001 (the Regulations), established the Office of Reserve Service Protection (ORSP). The Regulations also established the Director and Deputy Directors of ORSP who administer the Act. All office holders of ORSP are trained in Government Investigations and may be called on to investigate alleged breaches of the Act.

Every complaint is treated on a case by case basis. ORSP will not investigate complaints that are deemed to be vexatious, frivolous or made in bad faith.

What can ORSP do?

ORSP can ensure compliance with the requirements of the Act by:

- offering advice to stakeholders;
- liaising with employers and other interested parties, including awareness training;
- providing alternative dispute resolution services including mediation;
- conducting investigations into alleged breaches of the Act; and
- taking legal action as a last resort.

What are some examples of potential breaches of the Act?

Breaches of the Act include an ADF Reserve member being:

- refused employment because of their ADF Reserve status;
- refused release from work to render ADF Reserve service, and includes the ADF recruiting process;
- refused, or expelled, from a partnership or having a contract terminated;
- dismissed or otherwise disadvantaged in their employment;
- coerced into using annual leave or long service leave against their wishes to render ADF Reserve service; and
- excluded from a course or unit of study at an educational institution for rendering ADF Reserve service.

How does an ADF Reserve member lodge a complaint?

An ADF Reserve member can lodge a complaint with ORSP at any time for perceived breaches of the Act, including discrimination, disadvantage in their civilian employment, educational status, and partnership or practice rights.

Before making a complaint though, the ADF Reserve member should try to resolve the issue personally with their employer, educational institution, partnership etc. They may also ask their ADF unit Commanding Officer for additional support and guidance. Where an issue can not be resolved with the assistance of the ADF unit, the ADF Reserve member may submit a written complaint to ORSP.

What will ORSP do with the complaint?

In the first instance, ORSP will try to negotiate an amicable outcome.

Should this be unsuccessful, ORSP may seek resolution through more formal means.

What are the responsibilities of an ADF Reserve member?

An ADF Reserve member is obliged to make their release from work or course of studies as easy as possible for you. They are strongly encouraged to do this by:

- fostering a good working relationship between Defence and you;
- considering the impact that their absence will have on your business;
- providing you with as much notice as possible when they are required to render ADF Reserve service;
- providing you with a 6-12 month plan of their intended ADF Reserve service including any training commitments, noting that exact dates will be provided to you when they become known;
- providing you with written notification using the AE380, Tri-Service Notification form before and after their ADF Reserve service whenever you ask for it;
- providing you with information about the Employer Support Payment Scheme;

- discussing the possibility of your participation in Exercise Boss Lift and Exercise Executive Stretch where appropriate;
- providing you with information that is available from the Defence Reserves Support website, (www.defencereservessupport.gov.au);
- explaining how their training, skills and experience are useful to your business;
- Informing you of the Supportive Employer or Education program and how you can have your company, organisation or educational institution logo displayed on the Defence Reserves Support website.

How can ORSP help employers?

The Office of Reserve Service Protection is able to provide you with guidance and advice on the following:

- your legal obligations;
- how best to reach a workable solution to ADF Reserve service requirements;
- developing supportive Defence friendly leave policies and work place agreement clauses in relation to ADF Reserve service.

What if I need more information or guidance?

For further information or assistance you may contact ORSP by:

- emailing your questions to orsp@defence.gov.au; or
- phoning us on 1800 671 998.

How do I find out more information?

1800 803 485

www.defencereservessupport.gov.au