



RSL Australia

Response to Defence Amendment (Defence Honours and Awards Appeal Tribunal) Bill 2025

*Foreign Affairs, Defence and Trade Legislation
Committee*

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Response to Defence Amendment (Defence Honours and Awards Appeals Tribunal) Bill 2025

The RSL is the nation's largest and oldest Ex-Service Organisation representing the interests of veterans and their families through our seven State and Territory Branches, 1,087 Sub-branches and 153,000 individual members.

RSL Australia welcomes the opportunity to provide input into the Foreign Affairs, Defence and Trade Legislation Committee Inquiry into *Defence Amendment (Honours and Awards Appeals Tribunal) Bill 2025*. The Bill seeks to modernise the arrangements for review by the Honours and Awards Tribunal (the Tribunal), better aligning it with arrangements governing contemporary review bodies. The intent of the Bill is to ensure the Tribunal focuses on reviewing decisions about contemporary actions, protecting the integrity of the Defence honours and awards system by removing the risk of decisions being made when it is difficult, if not impossible, to refer to objective and independent evidence.¹

Please refer to our initial submission regarding the Tribunal, which was lodged on 30 August 2024² in which we stressed the importance of the Defence Honours and Awards Appeals Tribunal remaining independent of Government. We reiterate that position, and the importance of preserving the Tribunal's role as an independent, merit-based review mechanism, free from political or bureaucratic interference.

While some proposed changes contained within the Bill are administratively sound, administrative convenience cannot supersede veterans' rights.

The key concern for RSL members is related to the proposed 20-year limit on reviewable decisions. The Bill proposes that for a decision to be reviewable, the application needs to have been made within 20 years of the eligible service being rendered. In effect, this means that in order for a refusal decision regarding a defence honour that relates to a particular operation with an end date to be a reviewable decision, the application needs to be made to Defence within 20 years of the operation ending, or within a shorter period as prescribed by the regulations.

RSL concedes the difficulty in completing a full and thorough review of decisions when eyewitness accounts and corroborating evidence from key decision makers of the day are no longer available. However, the RSL members are concerned that this Bill, if passed, would erode the rights of ADF members, veterans, and their families and supporters to appeal to the Tribunal. There is concern that this Bill poses a direct threat to fairness, transparency, and justice in the recognition of Australian Defence Force service.

¹ The Parliament of the Commonwealth of Australia, House of Representatives, Defence Amendment (defence Honours and Awards Appeals Tribunal) Bill 2025 Explanatory Memorandum [ParlInfo - Defence Amendment \(Defence Honours and Awards Appeals Tribunal\) Bill 2025](#)

² RSL Australia [submission](#) to the Senate Foreign Affairs, Defence and Trade References Committee Inquiry into the Defence Honours and Awards System (30 August 2024)

Amended Definitions (Defence Honour, Defence Award and Foreign Award)

RSL is supportive of these proposed changes; they appear to be administratively sensible with no foreseeable negative consequences for veterans.

Redefine relevant time period for reviewable decisions

As identified in the explanatory memorandum to the Bill, the advantages of a shorter, 20-year period are that eyewitnesses and decision makers of the day are more likely to be available to aid the Tribunal. While the RSL accepts the provision is administratively sensible and increases the likelihood of eyewitnesses and decision makers being available to the Tribunal, this may prohibit some individuals from applying for medallic recognition. For example, some members may serve more than 20-years after a medallic qualifying service and may not wish to apply while still in service. Meritorious and heroic acts are not always written up and recognised at the time of performing the act due to a variety of reasons including operational tempo or personal bias of colleagues. RSL is of the view that the Tribunal's legislative framework should not prevent or deter an individual from being recognised at a later stage. Particularly with respect to the disproportionate effect on WWII, Korea, Vietnam and earlier cohorts, including descendants seeking to correct historic oversights.

RSL notes the intention of this change is to increase the Tribunal's focus on specific, contemporary periods. While a time limit for reviews might appear administratively acceptable it does not recognise the reality of service and recognition.

RSL recommends the Senate Committee give this amendment further consideration, and if it passes into legislation, that the 20-year qualifying period is not applied retrospectively. Further, RSL recommends exploring procedural triage or requiring new evidence rather than a blanket time-limit, as a fairer way to manage caseloads.

Refusal decision after cancellation decision is not reviewable

A decision to cancel a defence honour, defence award, or foreign award is currently not reviewable under the Defence Act. However, a subsequent application relating to a previous cancellation decision is considered a reviewable decision. RSL notes the intent of this amendment is to correct this anomalous situation, by ensuring that a decision regarding a previously cancelled defence honour, defence award or foreign award is not a reviewable decision.

RSL acknowledges that a cancellation decision is given high levels of scrutiny, often relates to serious misconduct and is generally made by the Crown or their representative. However, as evidenced by the controversial pre-emptive removal of medals by CDF and the Minister for Defence based on the Brereton Report, without prosecution or a trial verdict, the RSL supports the need for a cancellation decision to be reviewable by the Tribunal.

Who can apply for review?

The current scope of who can apply for a review is exceptionally broad; anyone can apply for an award to be issued for any service for any ADF member. RSL agrees that it is helpful that a person or organisation seeking a review has a clear link to the nominee.

An application from a member for their own actions for a defence honour does not align with the policy intent, nor with the values of the ADF. Accordingly, this amendment will ensure a person is unable to 'self-nominate' for an application for review. However, the person, or their immediate family member, will be required to give consent for a review application to be lodged. Similarly, regarding defence awards, the proposed change will ensure that an application for review is lodged by the affected person or their immediate family member, limiting the scope of who can apply for review.

RSL notes that other Commonwealth countries limit the scope of who can apply for medallic recognition for example in the UK where official next of kin or lasting power of attorney can apply on a veteran's behalf. The proposed amendments appear to be in line with this practice and as such, RSL supports this proposed change.

Time limit for making an application for review

Currently, there are no limitations on when an application for review could be made to the Tribunal. In effect, this means that an applicant may apply for review many years after the reviewable decision is made.

The Bill proposes that an application for review of a reviewable decision can only be made within six months after the day the reviewable decision is made; or if the Tribunal is satisfied on reasonable grounds that exceptional circumstances exist as to why an application for review cannot be made within six months.

In comparison to other reviewable decisions (government or departmental) legislation sets out the timeframe for applications for review. Typically, but not always, it is 28 days – for example the Administrative Review Tribunal Act.

RSL agrees that six months is a reasonable timeframe to lodge a review application, noting that there may be instances where Defence will be required to provide further evidence and regulation can usefully set a timeframe for that response.

Annual Reporting

Reporting by the Tribunal is currently voluntary. The proposed change will require annual reporting to the Minster and to Parliament. RSL welcomes the formalisation of annual reporting and increased transparency.

New regulations to be created

The Act already provides for regulations to be made providing for any fees that are to be payable in relation to applications to the Tribunal; prohibiting the disclosure of information obtained by the Tribunal, a member of the Tribunal or a person assisting the Tribunal; and proof of decisions or orders of the Tribunal.

This proposed amendment will enable new regulations to be made to support the Tribunal with administrative matters. The regulations could provide for the Chair to formally reject an application for review on the ground that it has not been properly made; introduce legislative provisions for the withdrawal of an application to the Tribunal; enable the Tribunal's power to split or combine applications for review; and better define the Tribunal's power to correct errors in its written decisions. RSL notes that the amendment will protect the independence of the review body and require the Minister to consult the Chair of the Tribunal prior to any new regulations. As such, RSL supports this amendment.

Other matters for noting

In recent years, the RSL has become aware of more cases of stolen valour due in part to the availability of replica medals. While initially companies provided replica medals to current serving members and veterans, as a way of preserving their original medals, a lack of governing legislation or regulation has allowed members of the public to purchase replica medals without formal documentation confirming their eligibility.

While the Tribunal has previously considered the need for further medallic recognition for ADF personnel, it is also imperative to preserve the value of medals awarded.

RSL recommends that consideration be given to amend the Defence Act to restrict the sale of replica medals, requiring official documentation to confirm eligibility.