



FAAAA

Fleet Air Arm Association of Australia

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Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Email: fadt.sen@aph.gov.au

Dear Sir/Madam,

Submission to the Inquiry into the Defence Honours and Awards Tribunal Bill 2025

Introduction

1. The Fleet Air Arm Association of Australia (FAAAA) is a non-profit organisation established in 1977 with the aim of uniting former and serving members of the Naval Aviation Force (the Fleet Air Arm), and to assist with their welfare and those of their families. As part of our Charter we also make submissions on matters related to the treatment of ex-service men and women.

2. It is in this context that we make this submission regarding the proposed provisions of the Defence Amendment (Defence Honours and Awards Appeal Tribunal) Bill 2025 (The Bill), which is currently being considered by the Senate Foreign Affairs, Defence and Trade Legislation.

3. This submission is brief. It reflects the lack of time available to those wishing to make comment, as little or no prior opportunity to do so appears to have occurred during the development of The Bill.

Scope of our Submission

4. The Bill seeks to amend the Defence Act by various provisions which will fetter the Defence Honours and Awards Appeal Tribunal's (the Tribunal's) scope to review matters. We wish to comment, in particular, on the following such provisions:

- a. 110V(2-5) seeks to impose additional time limits to constrain any review to 20 years or less from the relevant operation ending or service being rendered (for a decision relating to a defence honour, operational service award or foreign award of a defence honour);
- b. 110VA seeks changes to who may make an application for review, and
- c. 110VAA seeks to establish that an application for review must be made to the Tribunal within six months of a reviewable decision being made by Defence, unless exceptional circumstances exist.

Argument and Consideration

110V(2-5) Additional time limits

5. The FAAA submits that an arbitrary limit of 20 years, as specified, will preclude the Tribunal reviewing decisions which, because of the circumstances of the time (the ‘fog’ of war, diminished record keeping, arbitrary limits on the number of awards in conflict, a different political imperative etc.) are historically more likely to have been flawed than more recent matters.

6. This assertion is borne out by fact. Examination of a consecutive sample of 60 DHHAT reviews into historical matters (i.e. more than 20 years ago) shows the Tribunal recommended 40% of the original decisions should be overturned [see Annex A for our analysis and explanatory notes]. This is a very significant proportion, and we note it includes recommendations for such prestigious awards as two Victoria Crosses and various other Distinguished Service medals.

7. These statistics dramatically affirm the value of the DHAAT in examining historical matters and overturning a significant number of injustices. If the proposed Bill is passed such a mechanism will be lost for historic retrospective examination in the future.

8. We wish to also emphasise that even reviews that affirmed the original decision achieved a valuable outcome, insofar as they brought clarity and closure to the applicants. Careful reading of past ‘Reasons for Decision’ revealed a number of cases where the appellant, even though unsuccessful, reported that the Tribunal’s examination was helpful.

9. The proposed Bill is apparently being justified by shifting the Tribunals focus to only contemporary actions and minimising the risk of decisions being made when access to more objective and independent evidence may be limited. We strongly refute this as a way ahead: being ‘too difficult’ should never be an excuse applied to consideration of anyone who has given service to their country.

110VA Who can apply for a review?

10. The Bill proposes changes in regard to who may make an application for a review. We consider that the proposed changes introduce a high degree of complexity, to the point where requests for reviews may simply become too difficult even in circumstances which might otherwise result in a positive outcome for the affected person.

11. We further note that the great majority of matters examined in our sample (Annex A) were at the request of the individual affected, and that few if any of them could be considered spurious. As noted above, the Tribunal upheld 40% of them, which demonstrates that, irrespective of who the applicant was, a significant proportion of the request for reviews were successful.

12. We see no reason why a person who has been denied an award, or considers it to be insufficient, should not be the appellant. The practice in common law is, for example, that any person can appeal a sentence imposed upon them. Denying the same principle to a veteran in regard to his or her award defies both precedent and natural justice.

110VAA Time limit for making an application for review.

13. Section 110VAA provides 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, such longer period as the Tribunal allows.

14. The effects of this provision would, we believe, be confusing to someone not versed in interpretation of complex legislation. For example, as noted above, 110V(2) renders a decision as not reviewable if its end date was more than 20 years before the application. 110VAA specifies that application for review of a reviewable decision must be made within six months of the day the decision was made. What is the interaction between these provisions? Prima facie, the provisions of 110VAA would render all reviewable decisions more than six months old as unreviewable, thus short-changing even the 20 year limit.

Conclusion

15. The Tribunal has operated for many years and is a respected entity which performs a difficult task well. It is hard to understand why the Government supports a Bill that tries to fix something that isn't broken, particularly without adequate consultation, and which would remove the ability for veterans or their families to challenge what they perceive is, far too often, flawed decisions about themselves or their loved ones.

16. This is particularly true given that the Tribunal is a statutory agency, which was intended to act independently of Government and, of course, of Defence. That is a crucial point. To do what it does the Tribunal must remain independent, both in the way it conducts investigations and its scope to do so. The Bill significantly limits that scope.

17. The best legislation is clear, concise and simple. This Bill is none of those. It seeks a number of amendments to the Defence Act which have all the hallmarks of obfuscation and over-complexity, without any explanation as to why they are necessary in the first place, nor what their cumulative effect would be.

18. For the above reasons we do not support any part of this Bill. We believe that Serving and ex-serving members of the Australian Defence Force (ADF) who have made unique contributions and sacrifices on behalf of the nation deserve so much better – and they already have an effective mechanism in place. We urge the Senate Committee to set it aside.

Yours faithfully,

Andrew H Whittaker
CAPT, RAN (R'etd)
National Secretary
Fleet Air Arm Association of Australia

Annex A to FAAAA's Submission to
the Inquiry into the Defence Honours
and Awards Tribunal Bill 2025.

Examination of past Tribunal Considerations

	Ref	Consideration	Date	Recommendation
1	10 & 11/25	SQNLDR J.E. Lardner	1965	To allow personnel who engaged in Operation TRIMDON be awarded The Vietnam Logistic and Support Medal.
2	9/25	Cowan, Taylor, Polack and Sheard	1942	The award of a Victoria Cross was not appropriate for Taylor, Polack and Sheard BUT that the Star of Gallantry be awarded to Pilot Officer W. Cowan.
3	5/25	Townsend	1970	Mr Townsend be awarded a Commendation for Distinguished Service
4	4/25	McKenzie	1966	Mr McKenzie not be eligible for Vietnam Campaign Medal.
5	2/25	Hines	1980	CMDR Hines not be awarded the Australian Service Medal (Middle East).
6	9/24	Wilkes	1993	Mr Wilkes be awarded the Commendation for Distinguished Service.
7	7/24	Hunt	1971	Mr Hunt's service be declared as warlike to render him eligible for the Australian Active Service Medal 1945-1975.
8	5/24	Stevens	1970	Mr Stevens not be awarded a Conspicuous Service Award.
9	1/25	Gordon	1965	Mr Gordon not be awarded a Distinguished Service Decoration.
10	21/23	Swanton	1965	WO Swanton be awarded the Medal for Gallantry.
11	20/23	Wheatley	1965	WO Wheatley be awarded the Medal for Gallantry.
12	16/23	Stevens	2003	CPO Stevens be awarded the Medal for Gallantry
13	12/23	Greatrex	2002	LCDR Greatrex not be awarded the Australian Operational Service Medal (Border Protection).
14	11/23	Ryan	1942	Mr Ryan not be awarded the 1939-45 Star.
15	10/23	Dunn	1969	Sapper Dunn be awarded the Conspicuous Service Medal.
16	8/23	Ball	1988	CPO Ball be awarded the Australian Operational Service Medal (Border Protection).
17	7/23	Murray	1993	BRIG Murray not be awarded the Australian Active Service Medal (Middle East).
18	3/23	Evans	2004	The Chief of Joint Operations consider awarding a Commendation to Mr Evans in recognition of his excellent service in 2004.
19	2/23	Walker	1968	Mr Walker be awarded the Medal for Gallantry.
20	16/22	Gilbert	1971	Mr Gilbert not be awarded a Distinguished Service Cross.
21	14/22	Murray [dec]	1945	Private Murray be awarded a Commendation for Gallantry.
22	13/22	Hawkins	1970	Mr Hawkins be given a Commendation for Distinguished Service.
23	12/22	Manders and Shingles	1998	LCDR Manders and Mr Shingles not be awarded CSCs.
24	11/22	Norden (dec)	1968	PTE Norden be awarded the Victoria Cross.
25	10/22	Lockrey	1969	Mr Lockrey be awarded the Republic of Vietnam Campaign Medal.
26	9/22	Parr	1968	Mr Parr be awarded the Medal for Gallantry.
27	8/22	Birchley	2000	Mr Birchley not be awarded the Australian Active Service Medal (East Timor).
28	7/22	Ball	1968	All units and elements of the 1 st Australian Task Force Vietnam be awarded the Republic of Vietnam Cross of Gallantry with Palm Unit Citation.
29	5/22	Webster	2000	Ms Webster not be awarded the AASM (East Timor) or the ASSM(Solomon Is).
30	4/22	Hughes	2000	Mr Hughes not be awarded the AASM (East Timor).
31	3/22	Corry	2000	Ms Corry not be awarded the AASM (EAST TIMOR) or the ASSM(Solomon Is).
32	15/21	Rayner	1962	Mr Rayner not be awarded the AASM (Thai-Malay) nor the General Service Medal (Malaya) 1918-1962.
33	12/21	Hopkins	1965	SQNLDR Hopkins not be awarded the AASM (Malaysia).
34	11/21	Richardson	2006	Mr Richardson not be awarded Timor-Leste Solidarity Medal.
35	8/21	Dale	1968	Mr Dale not be awarded the Republic of Vietnam Campaign Medal.
36	6/21	Rutherford	1968?	547 Signal Troop not be eligible for the Republic of Vietnam Civil Actions Medal Unit Citation.
37	5/21	Kemp	1968	COL Kemp be awarded a Distinguished Service Cross.
38	4/21	Hughes, Johnson & Walker	1968	Messrs Hughes, Johnson and Walker not be awarded a Commendation for Distinguished Service (for different reasons to those of the Chief of Army's original decision).
39	3/21	Donnan	1972	Mr Donnan not be awarded a Republic of Vietnam Campaign Medal.
40	2/21	Patterson	1967	Mr Patterson not be awarded an AASM(Vietnam).
41	21/20	Biggs	1945	Mr Biggs not be awarded the award of the Africa Star.

42	30/30	Wilson	1968	No further honours and awards are appropriate for GPCAPT Wilson.
43	16/20	Collins	1969	Mr Collins not be awarded the Republic of Vietnam Campaign Medal.
44	15/20	Jensen	1968	Lt Jensen be awarded the Medal for Gallantry.
45	14/20	Gall [dec]	1946	Mr Gall be awarded the Australia Service Medal 1939-45.
46	13/20	Patterson	1998	LTCOL Patterson be awarded the ASM(Bougainville).
47	10/20	Green	1955	Dr Green not be awarded the UN Service Medal for Korea.
48	9/20	Fulcher	1979	Mr Fulcher not be awarded the Australian Active Service Medal.
49	3/20	Doolan	1942	Mr Doolan be awarded a Medal for Gallantry.
50	2/20	Cameron	1970	The following Units are not eligible for the Republic of Vietnam Cross of Gallantry with Palm Leaves: A Sqn 1 Armoured Regt.; B Sqn 3 Cavalry Regt. And 1 Field Sqn Royal Aust. Engineers.
51	13/19	Hare	1966	Mr Hare not be awarded for a Defence honour.
52	12/19	Bell [dec]	1968	Mr Bell should not be awarded any further awards for his service (due to lack of new evidence).
53	09/19	Sheean [dec]	1942	Ordinary Seaman Sheean be awarded the Victoria Cross.
54	08/19	Cameron	1971	Lt Cameron not be awarded a higher tier of recognition for his service in VN.
55	07/19	Robinson	1968	Mr Robinson not be awarded the Republic of Vietnam Campaign Medal.
56	06/19	Browning	1963	Mr Browning not be awarded the Australian Active Service Medal.
57	05/19	Paget	1942	WGCDR Paget not be awarded the Arctic Star.
58	02/19	Gilbert	1971	LTCOL Gilbert's Distinguished Service Medal nomination not be upgraded to a Military Cross.
59	01/19	White	1968	CAPT White be awarded a Distinguished Service Cross.
60	31/18	Cocks	1964	Mr Cocks not be awarded an Active Service Medal (Malaysia).

Methodology

Past records of the Tribunal's completed reviews were examined from on-line material on its website [here](#). A sample of 60 such records was considered sufficient to give a valid sample, starting from the most recent reviews in 2025 and working backwards through to 2020.

This sample only includes DHAAT reviews on actions/operations that occurred/concluded more than 20 years ago, as these are the matters which the proposed changes to Clause 110V(1-5) (Additional time limits) would, prima facie, have precluded had its provisions been in place. In this way we seek to demonstrate the efficacy of the Tribunal.

Reviews that considered the award of The Australian Defence Medal or the Australian Long Service Medal were not included as they are considered to be 'length of service' matters, unlikely to be affected by any 20 year restriction.

Matter No.6/23 was heavily redacted and could not be readily assessed as falling outside the 20 year recency limit. It was therefore not included.

Matter No. 11/20 was found by the Tribunal to be outside their remit to change and was referred back to the Chief of Army recommending that he review the Affected Person's discharge classification, which would influence whether he was entitled to the Australia Service Medal or not. Reading of the review suggests that the application by the Appellant (daughter of the Affected Person) was more about removing the stigma of 'Dishonourable Discharge' for her father, rather than the award of a medal. To that extent, the appeal was successful at least in having the matter referred back to Army for reconsideration. The outcome is not known and the matter is not included in this sample.

Outcomes where the Tribunal found in favour of the Appellant are shaded green. Outcomes where the Tribunal upheld the original decision are shaded yellow. This colour scheme is simply to allow the reader a quick assessment of relative numbers.