



**Australian Government**

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**Defence Honours & Awards Tribunal**

**INQUIRY INTO RECOGNITION FOR SERVICE FOR  
AUSTRALIAN MILITARY PERSONNEL WHO SERVED WITH  
4TH BATTALION, ROYAL AUSTRALIAN REGIMENT IN  
MALAYSIA IN 1966 TO 1967**

## LETTER OF TRANSMISSION

**Inquiry into Recognition for Service for Australian Military Personnel who served with 4th Battalion, Royal Australian Regiment in Malaysia in 1966 to 1967**


The Hon Dr Mike Kelly AM MP  
Parliamentary Secretary for Defence Support  
Parliament House  
Canberra ACT 2600

Dear Dr Kelly

I am pleased to present the report of the Defence Honours and Awards Tribunal into the eligibility criteria for medallic recognition for members of 4<sup>th</sup> Battalion Royal Australian Regiment for service in Malaysia in 1966 to 1967.

The inquiry was conducted in accordance with the Terms of Reference. The panel of the Tribunal that conducted the inquiry arrived unanimously at the findings and recommendations set out in its report.

Yours sincerely



Professor Dennis Pearce AO  
Chair

5 February 2009

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## **TERMS OF REFERENCE**

On 29 August 2008 the Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into the eligibility criteria for medallic recognition for members of 4<sup>th</sup> Battalion Royal Australian Regiment for service in Malaysia in 1966 to 1967.

The Terms of Reference for the inquiry read:

The Defence Honours and Awards Tribunal shall inquire into and report on the eligibility of Australian Defence Force personnel who served with the 4<sup>th</sup> Battalion, Royal Australian Regiment (4 RAR) in Malaysia in 1966 to 1967, to receive Australian, Imperial or foreign recognition for that service.

In particular, the Tribunal is to examine the eligibility of members of 4 RAR who served at Terendak, Malaysia from May 1967 to September 1967 for the Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.

The Tribunal is to examine relevant documentary evidence, and consider the nature and context of the service, in relation to the criteria for Australian, Imperial and foreign awards, in order to arrive at a fair and sustainable response to claims for recognition.

The Tribunal is to report to the Parliamentary Secretary for Defence Support on its findings in regard to the above and any recommendations that arise from the inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference.

## **EXECUTIVE SUMMARY**

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.
2. The Tribunal may consider individual claims to medals that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards.
3. On 29 August 2008, the Parliamentary Secretary for Defence Support, The Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into the eligibility of Australian military personnel who served with the 4<sup>th</sup> Battalion, Royal Australian Regiment (4 RAR) in Malaysia in 1966 to 1967, to receive Australian, Imperial or foreign recognition for that service.
4. The relevant medals for the Tribunal's inquiry are the Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia. The General Service Medal and the Pingat Jasa Malaysia are awarded in accordance with rules made by the United Kingdom and the Malaysian Governments, respectively.
5. This reference was undertaken by the following members of the Tribunal:  
  
Professor Dennis Pearce (Chair)  
Brigadier Gary Bornholt (Retd)  
Professor David Horner  
Mr John Jones
6. The Tribunal considered 28 submissions from members of the public and organisations and took oral evidence from 6 persons.
7. When considering the eligibility of individuals for medallic recognition and the eligibility criteria for the relevant medals, the Tribunal carefully examined the basis on which the medals had been created and the circumstances in which they had been awarded. It paid heed to the integrity of the Australian system of honours and awards and the consequential impact any finding or recommendation might have on that system.
8. The Tribunal is satisfied that none of the applicants for the award of a medal qualify under the existing rules for the relevant medals. Their service did not occur during the relevant qualifying period.
9. The Tribunal recommends that one change be made to the eligibility rules for the Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA'. The qualifying time period should be extended from 11 August 1966 to 14 September 1966 for service in Borneo (Sabah, Sarawak and Brunei). This is the date after which the relevant active service ceased.
10. The Tribunal does not recommend that any approach be made to the United Kingdom or Malaysian Governments for a change in the rules relating to the award of

the General Service Medal or the Pingat Jasa Malaysia.

## RECOMMENDATIONS

**Recommendation 1:** The Tribunal recommends that the current qualifying end date for the award Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA' be extended to 14 September 1966 inclusive for service in Borneo (Sabah, Sarawak and Brunei).

**Recommendation 2:** The Tribunal recommends that it be determined that members of 4 RAR who served at Terendak from May 1967 to September 1967 (as referred to in the Terms of Reference) are not eligible for the Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.

**Recommendation 3:** The Tribunal recommends that the Australian Government takes no action to recommend to either the Government of the United Kingdom or the Government of Malaysia that a change be made in the rules relating to the award of the General Service Medal or the Pingat Jasa Malaysia to include eligibility for service by members of 4 RAR after 12 June 1965 and 31 December 1966, respectively.

# REPORT

## Establishment of Inquiry and Terms of Reference

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.
2. The Tribunal may consider individual claims to medals that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards.
3. On 29 August 2008, the Parliamentary Secretary for Defence Support, The Hon Dr Mike Kelly AM MP, requested the Tribunal to inquire into the eligibility of Australian military personnel who served with the 4<sup>th</sup> Battalion, Royal Australian Regiment (4 RAR) in Malaysia in 1966 to 1967, to receive Australian, Imperial or foreign recognition for that service.
4. The Terms of Reference for the inquiry read:

The Defence Honours and Awards Tribunal shall inquire into and report on the eligibility of Australian Defence Force personnel who served with the 4<sup>th</sup> Battalion, Royal Australian Regiment (4 RAR) in Malaysia in 1966 to 1967, to receive Australian, Imperial or foreign recognition for that service.

In particular, the Tribunal is to examine the eligibility of members of 4 RAR who served at Terendak, Malaysia from May 1967 to September 1967 for the Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.

The Tribunal is to examine relevant documentary evidence, and consider the nature and context of the service, in relation to the criteria for Australian, Imperial and foreign awards, in order to arrive at a fair and sustainable response to claims for recognition.

The Tribunal is to report to the Parliamentary Secretary for Defence Support on its findings in regard to the above and any recommendations that arise from the inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference.

## Conduct of the Inquiry



5. The inquiry commenced on 13 September 2008 with advertisements being placed in the major newspapers nationally giving notice of the inquiry and calling for submissions.

6. At about the same time, the Tribunal wrote to key organisations advising of the inquiry and inviting them to make a submission. The Tribunal also wrote to persons and groups who had previously made representations to the Minister and to the Directorate of Honours and Awards, Department of Defence seeking recognition for 4 RAR's service in Malaysia. The Tribunal also sought a submission from the Department of Defence.

*Written Submissions.*

7. 27 written submissions were received by the Tribunal.

8. 17 submissions were from individuals who claimed that they should be entitled to medals or repatriation entitlements (or both) for their service with 4 RAR in Malaysia. Three submissions, one individual and two from organisations, offered support to the 4 RAR applicants.

9. Five submissions were from individuals who served with army units other than 4 RAR or with other Services and were therefore considered to be outside the Terms of Reference for this inquiry into service with 4 RAR.

10. Two submissions argued that no change should be made to the eligibility criteria for any medallic recognition of service in Malaysia.

11. The Tribunal met on 23 September, 14 November and 9 December 2008 to consider these submissions.

*Appearances before the Tribunal.*

12. Four people appeared at a hearing conducted by the Tribunal on 10 December 2008.

13. Two of these were claimants for additional recognition while one appeared to provide supporting arguments on behalf of the claimants. All three had made written submissions to the Tribunal.

14. An officer who served with 4 RAR throughout its service in Malaysia appeared at the invitation of the Tribunal to provide information about the nature of the service of 4 RAR.

15. On 17 December 2008 the Tribunal took evidence from representatives of the Defence Department.

16. The witnesses who appeared before the Tribunal are listed at Appendix 2.

17. The Tribunal met to consider its decision on 9 January 2009.

## **Historical Background to the service of 4 RAR in Malaysia**

### ***Far East Strategic Reserve***

18. In January 1955 the relevant Commonwealth countries decided to establish the British Commonwealth Far East Strategic Reserve (FESR) to be located primarily in Malaya and 'to provide a deterrent to, and be available at short notice to assist in countering further communist aggression in South East Asia'.<sup>1</sup> These forces could be employed in defensive operations in the event of an armed external attack on Malaya or Singapore. FESR's secondary role was to assist in the maintenance of the security of Malaya by participating in operations against communist terrorists so long as they did not prejudice the readiness of the Reserve to perform its main role. The Australian forces committed to the Reserve were not to be used in relation to civil disturbances or other internal matters in Singapore or Malaya. It was expected that the units of the FESR would form the Commonwealth component of any force deployed under the auspices of the South East Asia Treaty Organisation (SEATO).

19. Australia undertook to contribute two destroyers or frigates, an aircraft carrier on an annual visit, additional ships in an emergency, an infantry battalion with supporting arms, a fighter air wing of two squadrons, a bomber wing of one squadron and an airfield construction squadron. The land component of FESR consisted primarily of the 28th Commonwealth Infantry Brigade Group with Australian, British and New Zealand battalions and was located at Penang in northern Malaya. While the Australian battalion commander was under the operational control of a British brigade commander, he had the normal right of appeal through the Commander Australian Army Forces, Far East Land Forces in Singapore to the Australian Government if he thought his force was endangered unnecessarily.

### ***Australian infantry battalions***

20. The 2nd Battalion of the Royal Australian Regiment (2 RAR) arrived at Penang in northern Malaya in October 1955 and soon began operations against the communist terrorists, its secondary role, as part of British operations in the Malayan Emergency. In September 1957, the 3rd Battalion of the Royal Australian Regiment (3 RAR) relieved 2 RAR and continued operations against the communist terrorists. Similarly, the 1st Battalion of the Royal Australian Regiment (1RAR) relieved 3 RAR in October 1959. The Malayan Emergency officially ended on 31 July 1960 but operations against the communist terrorists continued until 1 RAR returned home in October 1961.

21. When 2 RAR arrived in Malaya in October 1961 it was based, along with the remainder of the 28th Brigade, at the new Terendak Barracks in southern Malaya. As the Emergency was largely over, the Brigade could now concentrate on training for its primary FESR role, while Malay and Gurkha battalions continued limited operations on the Thai/Malay border against the remnants of the communist terrorists. After a request from the Malayan Government, 2 RAR conducted anti-terrorist operations on the Thai border between August and October 1962. It also undertook similar operations in April-July 1963. When not involved on the Thai border the Battalion took part in FESR exercises and some elements of the Battalion conducted an exercise

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<sup>1</sup> David Horner (ed), *Duty First: The Royal Australian Regiment in War and Peace*, Allen & Unwin, Sydney, 1990, p. 96.

in Thailand under SEATO auspices. In August 1963, 3 RAR relieved 2 RAR at Terendak. In a similar manner to its predecessor, 3 RAR began training for its primary FESR role, but in February 1964 the Australian Government agreed that the Battalion could conduct anti-terrorist operations on the Thai border, which it did until April 1964.<sup>2</sup> Three companies of the Battalion returned to the Thai border in September 1964 and remained there until December 1964.

### ***Confrontation***

22. Following the formation of Malaysia in September 1963 (by bringing together the states of Malaya, Singapore, Sabah and Sarawak) the Indonesian Government declared a campaign of Konfrontasi or Confrontation against the new nation. This involved sending Indonesian ‘volunteers’ from Kalimantan into Sabah and Sarawak. These were countered by security forces from Britain and Malaysia, which conducted operations against the incursions. In April 1964 the Australian Government agreed that, if the need arose, 3 RAR could be used against Indonesian incursions into mainland Malaysia.<sup>3</sup> The first Indonesian incursion occurred on 17 August 1964, and on 29 October elements of 3 RAR were deployed against incursions near Terendak.<sup>4</sup>

23. Thus 3 RAR had arrived at Terendak to train for the FESR primary role – on standby for operations under the SEATO umbrella. It had then been permitted to conduct two operations against the terrorists on the Thai border – its secondary role. These operations had been specifically requested by the Malaysian Government and were approved by the Australian Government. Then in April 1964 the Battalion had been permitted to take part in yet another category of operations, those against Indonesian infiltrators. This latter task was expanded when, as a result of a request from the British Government, 3 RAR deployed to Sarawak in March 1965 and conducted operations against Indonesian infiltrators until it withdrew back to the mainland at the end of July 1965.

24. When 4 RAR relieved 3 RAR at Terendak in September 1965, it took over the same responsibilities, namely preparing for the FESR primary role. It therefore took part in several brigade exercises for possible SEATO tasks. The Battalion was not involved in anti-terrorist activities which, as noted above, needed to be specifically approved by the Australian Government following a request from the Malaysian Government. Indonesian infiltrations into mainland Malaysia had ceased in May 1965 – four months before 4 RAR arrived – but if such infiltrations had taken place then 4 RAR could have been used to deal with them (as the Australian Government’s previous approval presumably still applied). There were apparently no further infiltrations, but in January 1966 a 4 RAR platoon was deployed to the coast to deal with a suspected infiltration. It turned out to be a party of smugglers.<sup>5</sup>

25. In April 1966, 4 RAR deployed to Sarawak where it conducted operations against Indonesian infiltrators. On 11 August 1966 the peace treaty between Malaysia and Indonesia was ratified in Jakarta, thus formally ending Confrontation. It could not be certain that all the Indonesian troops had been advised of the cessation of

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<sup>2</sup> Horner, *Duty First*, p. 156.

<sup>3</sup> Peter Dennis and Jeffrey Grey, *Emergency and Confrontation, Australian Military Operations in Malaya and Borneo 1950-1966*, Allen & Unwin, Sydney, 1996, p. 199.

<sup>4</sup> Horner, *Duty First*, p. 157

<sup>5</sup> Brian Avery, *Our Secret War: The 4th Battalion the Royal Australian Regiment, Defending Malaysia against Indonesian Confrontation, 1965-1967*, Slouch Hat Publications, McCrae, Victoria, 2001, p. 66.

hostilities and 4 RAR continued operations until the end of August.<sup>6</sup> The Battalion then began moving back to Terendak, with the rear elements arriving on 10 September 1966.<sup>7</sup> In accordance with the provision of the peace treaty, all troops were to disengage and leave foreign areas within 28 days of ratification. This meant that all Indonesian troops were also to be out of Malaysian territory by this time.

## **Awards for Service by 4 RAR in Malaysia**

### ***The Awards***

26. The qualifications for the awards sought are set out in Appendix 3. In summary, as relevant to the Tribunal's inquiry, they are:

*Australian Active Service Medal 1945-1975 (AASM 45-75)*: a member or former member of the Australian Defence Force may be awarded the medal if he or she served in connection with a warlike operation at any time during the period 3 September 1945 to 13 February 1975 being an operation declared by the Governor-General to be a prescribed operation. The conditions for the award of the AASM with Clasp 'MALAYSIA' for the prescribed operation are that the medal may be awarded to a member of the Australian Defence Force who:

- rendered service while allotted and posted as a member of an element for duty to the prescribed operation; or
- was awarded the General Service Medal 1962 with Clasp 'BORNEO' or Clasp 'MALAY PENINSULA' or the GSM 1918-62 with Clasp 'BRUNEI'.

Prescribed operations for the Clasp were Defence Force activities in:

- Brunei, North Borneo and Sarawak from 8 December 1962 to 23 December 1962;
- Sabah, Sarawak and Brunei from 24 December 1962 to 11 August 1966; and
- Malay Peninsular/Singapore from 17 August 1964 to 11 August 1966.

*General Service Medal 1962 (GSM)*: for Army personnel, service for 30 days in the Malay Peninsula/Singapore during the period 17 August 1964 to 12 June 1965 or until 11 August 1966 for service in Sabah, Sarawak or Brunei. This is an Imperial award and the terms for its eligibility are determined by the United Kingdom Government.

*Pingat Jasa Malaysia (PJM)*: members of the Australian Defence Force who were on the posted strength of a unit or formation and served in the prescribed operational area of Malaysia in direct support of operations in Malaysia for 90 days or more during the period 31 August 1957 to 31 December 1966. This is a Malaysian award and the terms for its eligibility are determined by the Malaysian Government.

### ***Eligibility of 4 RAR members for awards for service in Malaysia***

27. Australian military personnel who served with 4 RAR prior to 11 August 1966 in Borneo and on the Malay Peninsula are entitled to apply for the award of the AASM 45-75 with Clasp 'MALAYSIA'. The date 11 August 1966 was chosen as the

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<sup>6</sup> Avery, *Our Secret War*, pp. 170-3.

<sup>7</sup> Commander's Diary, 4 RAR, September 1966, AWM95, 7/4/15.

termination date for eligibility for the award because, as noted above, it was the date on which the treaty bringing Confrontation to an end was ratified.

28. Service in Malaysia after 11 August 1966 does not qualify for the award of an AASM 45-75 because service in Malaysia has not been declared to be a prescribed operation for the purposes of the medal after that date.

29. Australian servicemen serving on the Malay Peninsula ceased to be eligible for the award of the GSM with Clasp 'MALAY PENINSULA' on 12 June 1965, the date determined by the British authorities. Those who served in Borneo until 11 August 1966 may apply for the GSM 1962 with Clasp 'BORNEO'.

30. The cut off date for qualification for the PJM is determined by the Malaysian Government. That date was fixed at 31 December 1966. The Tribunal was not able to ascertain how this date was determined. It was suggested by the Defence Department that it was an act of generosity on the part of the Malaysian Government to recognise the contribution to the security of Malaysia made by service personnel from other countries.

31. Those personnel who served with 4 RAR in Malaysia after 11 August 1966 are considered to be eligible for the Australian Service Medal 1945-75 with Clasp 'SE ASIA'.

32. From this summary, it can be seen that 4 RAR personnel who served in Malaysia after 11 August 1966 do not qualify for the GSM or the AASM 45-75 because their service is outside the qualifying period specified in the rules for the awards. Service after 31 December 1966 does not qualify for the PJM.

33. The task of the Tribunal is to consider whether it should recommend to the appropriate authorities that the rules for the awards should be amended to allow members of 4 RAR who served in Malaysia for all or any of the period after 11 August 1966 to qualify for the award of the GSM or the AASM 45-75. Likewise, whether service after 31 December 1966 should qualify a member for the award of the PJM. In the case of the GSM and the PJM, this would require Australia to make representations to the United Kingdom and to Malaysia to amend the rules for their awards.

34. Before dealing with this issue, it is relevant to consider the relationship between eligibility for repatriation benefits and the award of medals. The claimants for awards made much of the comparative qualifications.

#### **Relationship between honours and awards and repatriation benefits**

35. Eligibility for repatriation benefits is governed by the *Veterans Entitlements Act 1986* (Cth) (VEA). There is no formal legal connection between eligibility for the award of medals and repatriation benefits: see *Re Eastman and Repatriation Commission* (1992) 28 ALD 253; *Re Revill and Repatriation Commission* [2001] AATA 385 [47]. In those cases, the fact that the applicants for repatriation benefits had received active service medals did not also qualify them for such benefits.

36. It has been recognised that, in any case, it is undesirable for eligibility for medals and benefits to be seen as interdependent. This has been acknowledged in

previous inquiries. For example, Principle 10 of the Report of the Committee of Inquiry into Defence and Defence-related Awards, 1994 (CIDA Report) states:

Matters relating to honours and awards should be considered on their merits...and these considerations should not be influenced by the possible impact, real or perceived, on veterans' entitlements.

37. Likewise in the Review of Service Entitlement Anomalies in respect of South-East Asian Service 1955-75, 2000 (Mohr Report), Preface p xxxii, it is said:

I hasten to confirm the generally expressed view that the receipt of medals does not necessarily mean that repatriation benefits would flow as a natural consequence or vice versa. The two areas of benefits are really unconnected and for good reasons....It is my opinion that for the future a policy should be clearly laid down that the recommendation for the award of a campaign medal and the subsequent award of such a medal does not carry with it any entitlement to repatriation benefits.

38. However, there can be a practical connection flowing from the nature of the service rendered by a member. The service can be such that it warrants recognition through the award of a medal and that same service can be of a kind that is appropriate to qualify the member for assistance by way of repatriation benefits. Service against a hostile enemy exemplifies this situation. None the less, it must be recognised that the award of medals starts from a different premise than eligibility for repatriation benefits.

39. In 1944, the Minister for External Affairs and Attorney-General, Dr H V Evatt, described the *Australian Soldiers Repatriation Act 1920* (the then legislation relating to repatriation benefits) as legislation that 'represents the desire of the Australian people, through their National Parliament, to ensure that members of Australia's gallant fighting forces who have become wounded or sick as a result of their service shall be properly cared for, and that they and their dependants, and the dependants of deceased members, shall be provided for by a war pension and otherwise assisted in the economic struggle of life.'<sup>8</sup>

40. The courts have often reiterated that repatriation legislation is beneficial in content and is to be interpreted broadly with this in mind.

41. Medals on the other hand are awarded to mark a member's service. There are strict rules governing eligibility. A member must demonstrate entitlement. The Tribunal understands that it is the policy of the Department of Defence that, if eligibility for the award of a medal is to be extended, the onus falls on the proponents of the change to make out a case. The Tribunal accepts this approach.

### **Allotment for duty**

42. Much confusion has arisen in the present proceedings because of the concept used to establish the qualification for repatriation benefits: allotment for duty. The claimants have put much weight on the issue of allotment. The claimants assert that if

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<sup>8</sup> Robin Creyke and Peter Sutherland, *Veterans' Entitlements Law* 2<sup>nd</sup> ed, Federation Press, Sydney, 2008, p. 3.

allotment had occurred at the time the Battalion was sent to Malaysia this would have led to their being entitled to the recognition they seek for medals and repatriation benefits.

43. This is a misunderstanding. Allotment for duty relates to repatriation benefits, not to the award of medals. However, in deference to the arguments put strongly by the claimants we set out briefly the reasons why this is the case.

44. For the period the Tribunal is examining, on the Malay Peninsula there was no overarching Nature of Service Declaration made, as this system was not introduced until 1993, to replace the Allotment for Duty system. The Nature of Service Declaration system, used since 1993, declares an Area of Operations, and defines the Nature of Service for operations being conducted in that Area. Under this system, conditions of service and resultant benefits such as taxation exemptions, war service home loans, repatriation benefits, medals, etc, are assumed to have been approved and flow automatically to the members force assigned to the operations. The Nature of Service system resolved what occurred under the Allotment for Duty system prior to 1993. Under that system, each Government agency with responsibilities under legislation for benefits, looked at the circumstances and decided, independently, what benefits they would provide. This explains in the present case the differences between eligibility dates for medals - 11 August 1966 (a Department of Defence responsibility), the certificate of allotment which provides eligibility dates for repatriation benefits - 14 September 1966 (a Vice Chief of the Defence Force or Service Chief responsibility) and Item 7 of Schedule 2 of the VEA which defines the period of Confrontation as concluding on 30 September 1967 (a Department of Veteran's Affairs/ Repatriation responsibility).

45. The concept of allotment was initially adopted and applied administratively only. However, after two decisions of the Federal Court that had equated allotment with posting, it was decided that the concept should be given legislative status. The Explanatory Memorandum to the *Veterans' Affairs Legislation Amendment Act 1990* noted:

The concept of 'allotment for duty' is a special one which was developed to cater for and identify service which attracted Repatriation benefits. It has been developed in respect of service undertaken in response to the war-like situations that have arisen since World War II and in respect of which there has been no formal declarations of war by Australia.<sup>9</sup>

46. That legislation reversed the court decisions with retrospective effect.

47. A member is 'allotted for duty' (VEA, s 5B(1)) only if two factors exist. First, the area in which the person served must be one of the operational areas described in Schedule 2 to the Veterans' Entitlement Act 1986. Second, the member or the member's unit must be allotted for duty by written instrument made by one of three designated authorities.

48. Relevant to the case before the Tribunal, the territories of Malaysia, Brunei and Singapore and the waters adjacent to those countries have been designated an operational area in respect of service in the period 17 August 1964 to and including

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<sup>9</sup> Creyke and Sutherland, *Veterans' Entitlements Law*, p. 7.

30 September 1967. However, the instrument of allotment relevant to 4 RAR determines 14 September 1966 as the concluding date of its allotment in Malaysia.

49. Despite inquiries, the Tribunal was not provided with information as to why the date 30 September 1967 was chosen as the cut off date for the designation of Malaysia as an operational area.

50. The cut off date of 14 September 1966 in the instrument of allotment for duty seems to be a date chosen to allow for the withdrawal of all Australian service personnel from Borneo. It is a date a little later than the return of all members of 4 RAR to Terendak.

51. The significance of the process of formal allotment of members for duty as a condition for eligibility for repatriation benefits is exemplified by the fact that two of the claimants who appeared before the Tribunal were unsuccessful in their applications for benefits because of the allotment cut off date: see *Re Heagney and Repatriation Commission* [2005] AATA 1122; *Re Manning and Repatriation Commission* [2005] AATA 1126;

52. The claimants have placed great store in the Mohr report, which recommended that Army and Air Force personnel on the posted strength of units on the Malay Peninsula between 15 September 1966 and 30 September 1967 inclusive, be allotted for duty retrospectively so that they become eligible for full repatriation benefits and medal entitlements, even though the Mohr report confirms 'the generally expressed view that the receipt of medals does not necessarily mean that repatriation benefits would flow as a natural consequence or vice versa. The two areas of benefits are really unconnected and for good reasons' (a position with which the Tribunal agrees) Mohr nevertheless sought to establish a linkage.

53. The key issue that seems to have been overlooked by the Mohr Report was that, there were two related Cabinet decisions on 7 July 1965, namely 1042 and 1048. Mohr seems to have only referred to 1042, which established a Special Area until 30 September 1967, in anticipation of future uncertainties that may arise. The related Cabinet decision 1048 clearly directed the Service Chiefs that Allotment for Duty should be confined to personnel specifically Allotted for Duty in relation to Indonesian infiltrators or communist terrorists in circumstances where there had been a specific request for the assistance of Australian forces and where the task had been clearly defined. Simply serving within the designated Special Area did not automatically establish eligibility to full benefits. The notion of incurring danger from hostile forces of an enemy during warlike operations underpins the eligibility for benefits and continues today in extant legislation.

54. The subsequent Report of the Review of Veterans' Entitlements, 2003 (the Clarke Review) concluded that service in 4 RAR and 8RAR on the Malay Peninsula after the end of Confrontation was of a kind that did not warrant a change in the eligibility provisions for repatriation benefits. No action has since been taken to allot 4 RAR for duty in respect of the period after 14 September 1966.

55. This examination of the concept of allotment for duty confirms the Tribunal's previous statement that such allotment for duty is not relevant to the award of medals.

### **Claim for recognition**



56. The claimants seek changes to the eligibility criteria for medallic recognition of their service on the Malay Peninsula in the period between 15 September 1966 and 30 September 1967. The claimants were all members of 4 RAR serving in Malaysia after 14 September 1966. Most claimants are seeking the AASM 45-75 with Clasp 'MALAYSIA'. Several also seek the GSM 1962 with Clasp 'MALAY PENINSULA'. Some also seek the PJM which has been awarded to those whose service in Malaysia commenced earlier than 1 January 1967.

57. Satisfaction of their claims would require amendment by the relevant authorities of the closing date for each of the medals claimed, as set out above. As noted there, the dates for eligibility for the GSM and the PJM are set by the countries that award the medal.

58. Many submissions also seek repatriation benefits, reflecting a widespread apparent misunderstanding that the Tribunal has some jurisdiction in relation to repatriation entitlements.

59. The confusion between eligibility for awards and repatriation benefits is reflected in the fact that submissions refer to 15 September 1966 as the date from which eligibility for the AASM 45-75 should be extended. In fact the cut off date for that medal is 11 August 1966. 15 September 1966 is the date applicable to eligibility for repatriation benefits. If there were to be a change in eligibility for the AASM 45-75, it would have to date from 11 August 1966.

#### **Arguments for the claimants**

60. There are two main arguments in the submissions and evidence given during appearances before the Tribunal by former members of 4 RAR to justify the changes sought in the qualifying dates for the award of the medals.

### *Argument 1*

61. The first argument is that 4 RAR's service on the Malay Peninsula was warlike and the allotment instrument should reflect the warlike nature of that service. Evidence given in person and in submissions to the Tribunal to support this contention was that:

- a. 4 RAR's primary role in Malaysia was to be prepared to deploy on operations as part of the FESR;
- b. live ammunition was carried on all patrols.;
- c. some troops were placed on stand-by at various times;
- d. communist terrorists were sighted near Terendak camp; and
- e. the VEA declares the Malay Peninsula as a special area until 30 September 1967. The Mohr Report recommended that this date should be used in the Instrument of Allotment which included 4 RAR service in Malaya.

### *Evidence before the Tribunal*

62. Considerable evidence was made available to the Tribunal that indicated that 4 RAR's service on the Malay Peninsula after 11 August 1966 could not be described as warlike.

63. Brigadier Ian Hearn (Retired), who served with 4 RAR throughout the tour of duty, appeared before the Tribunal on 10 December 2008. The claimants who appeared before the Tribunal were present at the hearing when Brigadier Hearn gave his evidence.

64. Brigadier Hearn's recollections of the period from the return from Borneo in September 1966 until the return of 4 RAR to Australia in September 1967, strengthened by reference to documents from the time and supported by consultation with other former members of the Battalion and members of their families, included:

- a. there was no Indonesian incursion into the Malay Peninsula or other offensive action on the Peninsula during this period;
- b. training exercises for SEATO tasks were conducted at battalion, brigade and division levels;
- c. companies of the Battalion undertook training at the Kota Tinggi training school;
- d. block leave periods for 4 RAR were taken - from the return from Borneo until 21 September 1966 and from 13 to 23 March 1967 as well as three weeks leave over the Christmas 1966 period;
- e. there was regular participation in sporting competitions at battalion, brigade and division levels whereas prior to service in Borneo there had been little time for sport;
- f. it was not thought necessary to evacuate families from the Malay Peninsula;
- g. live ammunition was not carried outside Terendak camp except by nominated leaders for use in self defence against dangerous animals; and
- h. the curfew at the beach was lifted on the return of 4 RAR to Terendak.

65. Brigadier Hearn's recollections of service in Malaysia post Confrontation provide a similar picture to the situation described by Lieutenant Colonel Brian Avery, also a veteran of 4 RAR's tour in Malaya, in his book *Our Secret War*

published in 2001. The Tribunal particularly noted Avery's description of the return to Australia of a large number of experienced soldiers who were replaced in 4 RAR by national servicemen. In Avery's words, 'In the period from December 1966 to March 1967, around 100 private soldiers were selected on a volunteer basis to return to join other battalions to bring those units up to strength with regular soldiers before their imminent departure for Viet Nam.'<sup>10</sup>

66. Avery also describes absences of whole companies from the Battalion for considerable periods of time, as well as the band, which filled the role of stretcher bearers on operations. He also describes the handover to 8 RAR in which the main body of about 350 of the Battalion's single soldiers '...left for Australia on the LSL *Sir Launcelot*, which then returned to Malaysia with a similar group of 8 RAR soldiers.'<sup>11</sup>

67. The Tribunal was also informed of definitions of warlike and non-warlike operations that are used by the Government for the purpose of determining eligibility for benefits for members. While these definitions do not have any legal status and were not originally directed to the recognition of service for the purposes of the award of medals, they provide a useful basis for understanding the concept of 'warlike' in its application to the award of medals.

### ***Warlike operations***

Warlike operations are those military activities where the application of force is authorised to pursue specific military objectives and there is an expectation of casualties. These operations can encompass but are not limited to:

- a state of declared war;
- conventional combat operations against an armed adversary;
- Peace Enforcement operations which are military operations in support of diplomatic efforts to restore peace between belligerents who may not be consenting to intervention and may be engaged in combat activities.

Normally, but not necessarily always, they will be conducted under Chapter VII of the UN Charter, where the application of all necessary force is authorised to restore peace and security or other like tasks.

The eligibility criteria for the award of a service medal for warlike service is generally one day or more on the posted strength of a unit or formation allotted (or assigned) to and serving in the operational area, or one operational sortie into or over the operational area from a unit allotted for such service. Visits or occurrences of a temporary nature usually attract a 30 day qualifying period.

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<sup>10</sup> Avery, *Our Secret War*, p. 177.

<sup>11</sup> Avery, *Our Secret War*, p. 192.

### *Non-Warlike operations*

Non-warlike operations are defined as those military activities short of warlike operations where there is risk associated with the assigned task(s) and where the application of force is limited to self defence. Casualties could occur but are not expected. These operations encompass but are not limited to:

- Hazardous. Activities exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty such as mine avoidance and clearance, weapons inspections and destruction, Defence Force Aid to the Civil Authority, Service protected or assisted evacuations and other operations requiring the application of minimum force to effect the protection of personnel or property, or other like activities.
- Peacekeeping. Peacekeeping is an operation involving military personnel, without powers of enforcement, to help restore and maintain peace in an area of conflict with the consent of all parties. These operations can encompass but are not limited to:
  - activities short of Peace Enforcement where the authorisation of the application of force is normally limited to minimum force necessary for self defence- activities, such as the enforcement of sanctions in a relatively benign environment which expose individuals or units to 'hazards' as described above under hazardous;
  - military observer activities with the tasks of monitoring ceasefires, re-directing and alleviating ceasefire tensions, providing 'good offices' for negotiations and the impartial verification of assistance or ceasefire agreements, and other like activities; or
  - activities that would normally involve the provision of humanitarian relief.

The eligibility criteria for the award of a service medal for non-warlike service is generally 30 days or more in the operational area, or 30 or more sorties into or over the operational area.

Visits or occurrences of a temporary nature also usually attract a 30 day qualifying period.

Notes:

- 1) Humanitarian relief in the above context does not include normal peacetime operations such as cyclone or earthquake relief flights or assistance.
- 2) Peacemaking is frequently used colloquially in place of peace enforcement. However, in the developing doctrine of peace operations, peacemaking is considered the diplomatic process of seeking a solution to a dispute through negotiation, inquiry, mediation, conciliation or other peaceful means.
- 3) Peacetime is routine operations short of warlike or non-warlike.

68. The accounts by Avery of the period after the end of Confrontation and Brigadier Hearn's account of service at Terendak do not indicate that 4 RAR was operating in a warlike environment.

69. Even if the Tribunal accepted that the arguments put by the claimants outlined above were correct, this would not convince it that the nature of the service could be described as warlike. There is no evidence in the Commander's Diary supporting the contention that communist terrorists were sighted near Terendak camp.

70. During the Tribunal hearing evidence, it was submitted that some troops carried live ammunition on exercises. As Brigadier Hearn explained in his evidence, commanders carried specially designated live ammunition while training at Kota Tinggi to deal with wild animals such as tigers, should they be encountered. Unit quarter guards carried ammunition in magazines that were not placed on weapons unless it was intended to open fire. Guards and patrols could only open fire after a challenge had been given and refused and only when necessary to defend themselves and friendly forces and to prevent sabotage, etc.<sup>12</sup>

71. The nature of the service undertaken by 4 RAR after returning from Confrontation in Borneo and the security situation existing on the Malay Peninsula after 14 September 1966 are very different from the circumstances described in the definition of warlike operations set out above.

72. As indicated above, the Mohr Report failed to refer to relevant Cabinet decisions. It also failed to appreciate that the concept of allotment for duty is not relevant to the award of medals.

### *Argument 2*

73. The second principal line of argument advanced by the claimants is that, even if the service was not warlike, because there was no threat (or expectation of casualties), the soldiers of 4 RAR believed that they were in danger.

### *Evidence before the Tribunal*

74. Evidence was given that:
- a. soldiers were told before leaving Australia that they were deploying on Active Service;
  - b. section and platoon commanders sometimes urged soldiers to be alert because of the threat of hostile action; and
  - c. the wording of charges was consistently prefixed by the words 'When on War Service'.

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<sup>12</sup> Commander's Diary, 4 RAR, January 1967, AWM 95, 7/4/18

### *Tribunal's findings*

75. Members of the Tribunal were satisfied that the claimants who appeared before them were sincere in their belief that they had served in a dangerous environment. Members also agreed that it was likely that Non Commissioned Officers would have encouraged soldiers to be very alert and might well have overstated the likelihood of hostile action in their endeavour to make training as realistic as possible. Nevertheless, determination of the nature of service must be properly based on the realistic assessment of the circumstances, rather than the contemporary beliefs of the participants, no matter how sincerely they might have been held.

76. The Tribunal does not consider that the fact that some, or even all, members of 4 RAR believed that their service was warlike is sufficient to overcome the factual position that related to the nature of the Battalion's service after 14 September 1966. Whether service is warlike for the purposes of qualifying for the AASM 45-75 must be determined objectively. The Tribunal's conclusions on the claimants' Argument 1 set out above preclude such a finding.

77. The 4 RAR Routine Orders dated 12 October 1966 required charge and offence reports to show at the statement of an offence the letters 'WOWS' for 'When on War Service'.<sup>13</sup> The reference to 'WOWS' was intended to indicate, as the 4 RAR unit Routine Orders state, that 4 RAR was no longer on active service. The nature of military discipline and the penalties that may be imposed for an offence vary according to whether a unit is designated to be on 'active service' or on 'war service'. The fact that the unit is stated to be on 'war service' does not mean that it is engaging in warlike operations, but rather it is an administrative notation for the purposes of the application of disciplinary measures under military law.

### *Additional arguments for the claimants*

78. Additional arguments raised by claimants included:
- a. The process of allotment for duty of 4 RAR and others in Malaysia remains seriously flawed as a result of it not being done appropriately at the time of the service and only being done retrospectively more than 30 years after the service in Malaya was completed. It was further claimed that the end date selected for 4RAR's service was wrong.
  - b. The continued refusal to recognise the service of 4 RAR claimants as being active service in nature is inconsistent with the recognition of active service granted for service with RAAF Ubon in circumstances perceived by the claimants as identical to their own service.

### *Tribunal's findings*

79. The Tribunal recognises that there may have been shortcomings in the allotment process which included 4 RAR's service in Malaysia. Nevertheless, on the evidence available to it, the Tribunal is not able to conclude that the end date for the allotment in respect of the service of 4 RAR on the Malay Peninsula should be later

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<sup>13</sup> Commanders Diary, 4 RAR, October 1966, RO 305 dated 12 October 1966 and RO 317 dated 19 October 1996, AWM95, 7/4/15.

than 14 September 1966, that is, the date by which all of the members of the Battalion had returned from Borneo to Terendak.

80. The Tribunal is satisfied that the circumstances existing at RAAF Ubon were sufficiently different from those which existed on the Malay Peninsula after 14 September 1966 to justify a different determination as to the nature of service which applied at the two locations. While the deployment at RAAF Ubon was officially characterised as part of Australia's SEATO obligations, there was a marked change in operational circumstances from 1965 onwards that did not apply to the Malay Peninsula in that it coincided with an escalation of aerial bombing missions on North Vietnam and the Ho Chi Minh trail by United States aircraft also based at Ubon. As such, the RAAF role at Ubon changed to include the maintenance of two fully armed aircraft ready to be launched within five minutes notice for the air defence of Thailand, and the deployment of Australian Airfield Defence Guard personnel, with appropriate Rules of Engagement to provide both internal and external security at the base, against a defined ground threat. Hence the decision to classify that service as warlike. As set out above, the circumstances at Terendak were altogether different.

#### **Conclusion on Eligibility for Award of Medals**

81. The Tribunal finds on the evidence before it that, once 4 RAR returned to Terendak in September 1966 after the end of Confrontation, its members reverted to training for the Battalion's FESR primary role, that is, preparing to deploy to Thailand as part of a SEATO force if that proved to be needed.<sup>14</sup> The Battalion's Routine Orders advised that, with effect from 15 September 1966, 'personnel in Borneo ceased to be on special duty in a special area'.<sup>15</sup> The same issue of the Routine Orders also advised that as from 1 October 1966 all units in the theatre ceased to be on active service.<sup>16</sup> Many of 4 RAR's exercises during the period after Confrontation were two-sided; that is against an 'enemy' consisting of other 28th Brigade or Malaysian units. It would have been extremely dangerous, and against normal practice, for troops to carry live ammunition on such exercises other than for self defence against the threat of attack from wild animals.<sup>17</sup>

82. During this period 4 RAR was never deployed on operations against terrorists, and indeed the succeeding battalions, 8 RAR and 1 RAR, were never deployed on such operations either. As Confrontation was over it was not expected that the Indonesians would mount infiltration attacks on mainland Malaysia and none occurred. (As an indication that no more infiltrations were expected, the beach curfew was lifted on 7 September 1966.<sup>18</sup>) No evidence has been found to suggest that any elements of 4 RAR conducted any operations between September 1966 and the time the battalion returned to Australia in September 1967.

83. However, it emerged in the course of the inquiry that members of 4 RAR continued to be engaged in warlike activities in Borneo, specifically the territories of

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<sup>14</sup> For a description of life in 4 RAR between September 1966 and September 1967 see Avery, *Our Secret War*, Ch 16, entitled 'Garrison life again and back to Australia'.

<sup>15</sup> 4 RAR Routine Orders pt 1, 19 October 1966, AWM95, 7/4/15.

<sup>16</sup> This meant that 22 Construction Squadron that was still serving in Sabah was no longer on active service.

<sup>17</sup> Avery, *Our Secret War*, p. 185.

<sup>18</sup> 4 RAR Routine Orders pt 1, 28 September 1966, AWM95, 7/4/15.

Sabah, Sarawak and Brunei, after the date of the Treaty bringing Confrontation to an end. After 11 August 1966, the campaign did not suddenly stop, rather, 'peace presented itself as a series of false starts'.<sup>19</sup> There was provision in the Treaty for a 28 day period for forces to disengage, during which time there continued to be potential for conflict to occur as forces moved to meet the requirements of the Treaty. During this period Australian forces reverted to a posture of warlike readiness on a number of occasions and deployed patrols with the expectation of encountering and destroying hostile incursions.

84. This notion that warlike service continued through until 14 September 1966 is supported by the fact that 4 RAR Unit Routine Orders (324) states inter alia, that 'with effect from 15 Sep 66, personnel in Borneo, ceased to be on special duty in a special area', in other words personnel in Borneo remained on warlike service until 14 September 1966 inclusive. This situation would seem to be inconsistent with the existing eligibility criteria for AASM 45-75 with Clasp 'MALAYSIA' (activities in Sabah, Sarawak and Brunei) which prescribes an eligibility end date of 11 August 1966.

85. The Tribunal finds that none of the claimants for the award of a medal for service with 4 RAR in Malaysia after 14 September 1966 qualifies for such an award. In all cases that are before the Tribunal, the member does not satisfy the qualifying time period in the rules relating to the award of the medal.

86. Further, the Tribunal is not persuaded that the conditions under which 4 RAR was serving after 14 September 1966 were such as to warrant any recommendation that the conditions for the award of the medals sought by the claimants should be changed.

87. The Tribunal does not consider that a case has been made for the Australian Government to recommend to either the Government of the United Kingdom or the Government of Malaysia that a change be made in the rules relating to the award of the General Service Medal or the Pingat Jasa Malaysia to include eligibility for service by members of 4 RAR after 12 June 1965 and 31 December 1966, respectively.

### **Recommendations**

**Recommendation 1:** The Tribunal recommends that the current qualifying end date for the award Australian Active Service Medal 1945-75 with Clasp 'MALAYSIA' be extended to inclusive 14 September 1966 for service in Borneo (Sabah, Sarawak and Brunei)

**Recommendation 2:** The Tribunal recommends that it be determined that members of 4 RAR who served at Terendak from May 1967 to September 1967 (as referred to in the Terms of Reference) are not eligible for the Australian Active Service Medal 1945-75 with 'Clasp MALAYSIA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.

**Recommendation 3:** The Tribunal recommends that the Australian Government takes no action to recommend to either the Government of the

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<sup>19</sup> Avery, *Our Secret War*, p. 169



United Kingdom or the Government of Malaysia that a change be made in the rules relating to the award of the General Service Medal or the Pingat Jasa Malaysia to include eligibility for service by members of 4 RAR after 12 June 1965 and 31 December 1966, respectively.

## APPENDICES

## **Appendix 1 – Submissions**

The Tribunal received submissions from the following people and organisations:

(Note: names have not been released as submissions were received in confidence)

Multiple submissions were received from some people.

## **Appendix 2 – Tribunal Hearings**

23 September 2008

Chair: Professor Dennis Pearce

Members: BRIG Gary Bornholt (Retd), Prof David Horner, Mr John Jones

14 November 2008

Chair: Professor Dennis Pearce

Members: BRIG Gary Bornholt (Retd), Prof David Horner, Mr John Jones

9 – 10 December 2008

Chair: Professor Dennis Pearce

Members: BRIG Gary Bornholt (Retd), Prof David Horner, Mr John Jones

Witnesses:

Roger Wickham

4RAR ex-member

Robert Manning

4RAR ex-member

Walter Heagney

4RAR ex-member

Brigadier Ian Hearn AO (Retd)

4RAR ex-Captain

17 December 2008

Chair: Professor Dennis Pearce

Members: BRIG Gary Bornholt (Retd), Prof David Horner, Mr John Jones

Pat Clarke

Acting Director Honours and Awards

Department of Defence

Brigadier Dave Webster

Nature of Service Review Team

9 January 2009

Chair: Professor Dennis Pearce

Members: BRIG Gary Bornholt (Retd), Prof David Horner, Mr John Jones

**Appendix 3 – Eligibility Criteria for the Australian Active Service Medal  
1945-75 with Clasp ‘MALAYSIA’, the General Service Medal 1962 with Clasp  
‘MALAY PENINSULA’ and the Pingat Jasa Malaysia.**



Commonwealth  
of Australia

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SPECIAL



*Elizabeth II*

COMMONWEALTH OF AUSTRALIA

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and  
Her other Realms and Territories, Head of the Commonwealth:

TO ALL to whom these Presents shall come.

GREETING:

WHEREAS it is desirable that there be instituted an Australian medal for the  
purpose of according recognition to members of the Defence Force, and  
certain other persons, who rendered service in warlike operations:

KNOW YOU that We do, by these Presents, institute a medal to be called the  
Australian Active Service Medal 1945-1975:

AND WE DO ordain that the award of the Australian Active Service Medal  
1945-1975 is governed by the Regulations set out in the Schedule.

IN WITNESS whereof We have caused these Our Letters to be made Patent.

GIVEN under the Great Seal  
of Australia at Our Court at  
St James's on 11 December, 1997.

By Her Majesty's Command,

*John Howard*  
Prime Minister

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## SCHEDULE

### REGULATIONS GOVERNING THE AWARD OF THE AUSTRALIAN ACTIVE SERVICE MEDAL 1945-1975

#### Citation

1. These Regulations may be cited as the Australian Active Service Medal 1945-1975 Regulations.

#### Interpretation

2. In these Regulations:

“clasp”, in relation to a Medal, means a device to denote a prescribed operation;

“Defence Force” has the same meaning as in the *Defence Act 1903*;

“Medal” means the Australian Active Service Medal 1945-1975;

“Minister” means a Minister administering the Department of Defence;

“prescribed operation” means an operation in respect of which a declaration has been made under regulation 3;

“Registrar” means the Registrar of Awards appointed under subregulation 8(1);

“Register” means the Register maintained under subregulation 8(2).

#### Prescribed operations

3. The Governor-General, on the recommendation of a Minister, may declare a warlike operation in which members of the Defence Force were engaged at any time during the period that commenced on 3 September 1945 and ended on 13 February 1975, to be a prescribed operation for these Regulations.

#### Conditions for award of the Medal

4. (1) The Medal may be awarded to the following persons who served in connection with a prescribed operation:

- (a) a member, or a former member, of the Defence Force;
- (b) a person in a class of persons determined by a Minister for these Regulations.

(2) The conditions for the award of the Medal are determined by the Governor-General on the recommendation of a Minister.

(3) The Medal may only be awarded to a person who fulfils the conditions for the award of the Medal.

(4) An initial award of the Medal to a person is made in the form of the Medal with a clasp.

(5) A subsequent award of the Medal to the person may only be made in the form of an additional clasp to the Medal.

**Making of awards**

5. An award of the Medal may be made by the Governor-General on the recommendation of the Chief of the Defence Force or his or her delegate.

**Design of the Medal**

6. The design of the Medal is as determined by the Governor-General.

**Wearing of the Medal**

7. The manner of wearing of the Medal is as determined by the Governor-General.

**Registrar of Awards**

8. (1) The Governor-General must appoint a Registrar of Awards.  
(2) The Registrar must:  
(a) maintain a Register of the names of persons to whom the Medal has been awarded; and  
(b) keep such other records relating to the award of the Medal as the Governor-General directs.

**Cancellation and reinstatement**

9. (1) The Governor-General may cancel, on the recommendation of the Chief of the Defence Force or his or her delegate, an award of the Medal and may reinstate a cancelled award.

- (2) If an award of the Medal is cancelled:  
(a) the name of the person to whom the award was made must be erased from the Register; and  
(b) the person must return the insignia of the award to the Registrar.  
(3) If a cancelled award is reinstated, the Registrar must:  
(a) restore in the Register the entry that was erased; and  
(b) return the insignia of the award to the person to whom the award was made.





## COMMONWEALTH OF AUSTRALIA

### DECLARATION AND DETERMINATION UNDER THE AUSTRALIAN ACTIVE SERVICE MEDAL 1945-75 REGULATIONS

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, pursuant to the Australian Active Service Medal 1945-1975 Regulations contained in the Schedule to Letters Patent dated 11 December 1997 ("the Regulations"), and on the recommendation of the Minister for Defence, hereby:

- (a) revoke the Declaration and Determination made on 30 January 1998 under regulation 3 and subregulation 4(2) respectively of the Regulations;
- (b) declare, under regulation 3 of the Regulations the following warlike operations in which members of the Australian Defence Force were engaged in the Indonesian Confrontation during the following periods to be a *prescribed operation* for the purpose of the Regulations:
  - (i) Defence Force activities in Brunei, North Borneo and Sarawak during the period that commenced on 8 December 1962 and ended on 23 December 1962;
  - (ii) Defence Force activities in Sabah, Sarawak and Brunei during the period that commenced on 24 December 1962 and ended on 11 August 1966;
  - (iii) Defence Force activities in the Malay Peninsula/Singapore during the period that commenced on 17 August 1964 and ended on 11 August 1966; and
- (c) determine, under subregulation 4(2) of the Regulations, that the conditions for award of the Australian Active Service Medal 1945-1975 with Clasp 'MALAYSIA' ("the Medal") for the *prescribed operation* are:
  - (i) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member while allotted and posted as a member of the Australian element for duty to the *prescribed operation*;
  - (ii) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member as part of the contribution of a foreign Defence Force to the *prescribed operation* while on secondment or exchange with the foreign Defence Force;

- (iii) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member who completed *one operational sortie* within the duration of the *prescribed operation*;
- (iv) the Medal may be awarded to a member of the Australian Defence Force who qualified for the General Service Medal 1962 with Clasp 'BORNEO' in accordance with the conditions for that award set out in Command Paper 2466 dated September 1964;
- (v) the Medal may be awarded to a member of the Australian Defence Force who qualified for the General Service Medal 1962 with Clasp 'MALAY PENINSULA' in accordance with the conditions for that award set out in Command Paper 3432 dated October 1967;
- (vi) the Medal may be awarded to a member of the Australian Defence Force who qualified for the General Service Medal 1918-1962 with Clasp 'BRUNEI' in accordance with the conditions for that award set out in British Command Paper, Print Number (30793) dated July 1963;
- (vii) the Medal may be awarded to a person who rendered service as part of the Australian element of the *prescribed operation* and who, in accordance with a determination made by the Minister under paragraph 4(1)(b) of the Regulations, is in a class of persons who may be awarded the Medal.

Dated

23<sup>rd</sup> March

2001



Governor-General

By His Excellency's Command



PETER REITH  
Minister for Defence



**COMMONWEALTH OF AUSTRALIA**

**DETERMINATION UNDER THE  
AUSTRALIAN ACTIVE SERVICE MEDAL 1945-1975 REGULATIONS**

I, **PETER REITH**, Minister for Defence, pursuant to the Australian Active Service Medal 1945-1975 Regulations, set out in the Schedule to Letters Patent dated 11 December 1997 ("the Regulations"), hereby revoke the determination made on 30 January 1998 and make the following determination:

**Classes of persons who may be awarded the Australian Active Service Medal 1945-1975 with clasp 'MALAYSIA'**

That for the purposes of paragraph 4(1)(b) of the Regulations, the persons described below are a class of persons who may be awarded the Australian Active Service Medal 1945-1975 with clasp 'MALAYSIA':

- (a) Australian civilians who qualified for the General Service Medal 1962 with clasp 'BORNEO' in accordance with the conditions for that award set out in Command Paper 2466 dated September 1964;
- (b) Australian civilians who qualified for the General Service Medal 1962 with clasp 'MALAY PENINSULA' in accordance with the conditions for that award set out in Command Paper 3432 dated October 1967; or
- (c) Australian civilians who qualified for the General Service Medal 1962 with clasp 'BRUNEI' in accordance with the conditions for that award set out in British Command Paper Print Number (30793) dated July 1963.

Dated *23<sup>rd</sup> April* 2001

A handwritten signature in cursive script that reads "Peter Reith".

**PETER REITH**  
Minister for Defence

ANNEX B TO  
DI(AF) PERS 10-7

THE GENERAL SERVICE MEDAL, 1962  
WITH CLASP MALAY PENINSULA

1. The General Service Medal, 1962 with Clasp Malay Peninsula was authorized in October 1967 for operational service in the Malay Peninsula/Singapore during the Indonesian confrontation.

Eligibility

2. Officers and airmen who fulfil the conditions of qualifying service between 17 August 1964 and 11 August 1966, inclusive, are eligible for the award of the General Service Medal, 1962 with Clasp Malay Peninsula.

Qualifying Service

3. Qualifying service for the General Service Medal, 1962 with Clasp Malay Peninsula is as follows:

- a. service of 30 days or more, not necessarily continuous, on land in the Malay Peninsula/Singapore between 17 August 1964 and 12 June 1965 (both dates inclusive) while on the posted or attached strength of any unit or formation in these areas;
- b. service of 30 days or more afloat, while in any Royal Navy, Royal Australian Navy, Royal New Zealand Navy, or Army vessel on duty in the waters surrounding the Malay Peninsula/Singapore between 17 August 1964 and 12 June 1965 (both dates inclusive). Service in any Royal Navy, Royal Australian Navy or Royal New Zealand Navy vessel on sea patrol duties between 13 June 1965 and 11 August 1966 (both dates inclusive), may also reckon as qualifying service and may be aggregated with qualifying service on land as in paragraph 3.a. to complete the required period of 30 days; or
- c. completion of 30 or more sorties by aircraft crews of HM Air Forces engaged on operational patrols over the waters surrounding the Malay Peninsula/Singapore between 13 June 1965 and 11 August 1966 (both dates inclusive) may also reckon as qualifying service; each patrol may count as one day's qualifying service and may be aggregated with qualifying service as in paragraph 3.a. to complete the required period of 30 days.

Short Service

4. If qualifying service was brought to an end before the completion of 30 days, on account of death, or evacuation owing to wounds or other disability due to service, the reduced period of service will be sufficient qualification for the award.

5. The grant to individuals for gallantry in operations on a specific occasion during the uncompleted qualifying period, not amounting to 30 days, of a British Honour, Decoration or Medal of the status of a British Empire Medal or above, a Queen's Commendation or a Mention in Dispatches, will qualify the recipient for the Medal and/or Clasp.

Returned From Active Service Badge

6. The award of the General Service Medal, 1962 with Clasp Malay Peninsula does not qualify a member for the award of the Returned from Active Service Badge (DI(AF) PERS 10-11).

# **AWARD OF THE PINGAT JASA MALAYSIA FOR AUSTRALIAN SERVICE DURING THE MALAY EMERGENCY AND INDONESIAN CONFRONTATION BY THE GOVERNMENT OF MALAYSIA**

## **INTRODUCTION**

During 2004, the Government of Malaysia made an offer to confer a special medal of service to eligible current and former Australian servicemen and women in appreciation of their service in Malaysia with the Commonwealth Far East Strategic Reserve from Independence to the end of Confrontation over the period 31 August 1957 to 31 December 1966 (this is extended by the Malaysian Government from 12 August 1966 as a 'cooling off period'). This will also include around 40 former members of the Australian Army who were recruited by the Government of the Federation of Malaya to serve as Lieutenants in the Malayan Police Force.

The Malayan Emergency and the Indonesian Confrontation were the two most significant conflicts for Malaysia following the end of World War II. During the period of the Confrontation, however, Australian troops also carried out operations on and around the Malay/Thai Border region in the pursuit of smugglers and bandits.

Australia and Malaysia enjoy a long-standing and valuable defence relationship. Acknowledgment of the contribution made by Australian men and women to the security of Malaysia and the region is valued highly by the Malaysian Government.

As the PJM is a foreign award, the Department of Defence will be acting as an agent for the Malaysian Government. In all possible circumstances, senior representatives from the Malaysian Government will present medals personally to recipients, including next of kin in cases of posthumous awards. For this to occur, names and addresses of applicants will need to be supplied to the Malaysian Government. In accordance with Australian privacy regulations, provision is made on the application form for an applicant to elect not to have this information passed on. Arrangements will be made for these to be separately dispatched to the recipient by Australian Defence officials.

The Australian Government has developed the eligibility provisions below to accord with the criteria for the medal as set out by the Malaysian Government. Any representations made directly to the Malaysian Government from ex-Service groups or individuals to vary the criteria will be referred to the Australian Government for response.

The Directorate of Honours and Awards will receive applications, verify the service and eligibility and facilitate the approval of the award. A specially designed application is available for this purpose.

## **ELIGIBILITY**

There are two categories of eligibility that will be assessed by the Department of Defence and the Department of the Prime Minister and Cabinet for eligibility for the Pingat Jasa Malaysia. These are as follows.

### **Category One:**

- a. Those members of the Australian Defence Force who were on the posted strength of a unit or formation and served in the prescribed operational area of Malaysia and Singapore, in direct support of operations in Malaysia for 90 days or more, in the aggregate, as follows:

- (1) Malaysia during the period 31 August 1957 and 31 December 1966 inclusive;  
or
- (2) Singapore during the period 31 August 1957 and 9 August 1965 inclusive.

Qualifying service between 12 August 1966 and 31 December 1966 may only apply if a member was posted for operations to Malaysia on or before 12 August 1966.

*The prescribed operational of Malaysia and Singapore is the landmass of East Malaysia (that is: the States of Sabah and Sarawak on the Island of Borneo), the Malay Peninsula and the Island of Singapore extending to 12 nautical miles seaward from the coast of these areas.*

- b. Those members of the Australian Defence Force who were on the posted strength of a unit or formation outside of the prescribed operational area above, but served in a secondary role in indirect support of operations in Malaysia for 180 days or more, in the aggregate, during the period 31 August 1957 and 31 December 1966 inclusive.

*The secondary role is seagoing service with HMA Ships patrolling outside of the operational area whilst allotted to Commonwealth Far East Strategic Reserve.*

- c. Those Australian citizens who served in a civilian law enforcement capacity (police, home guard or security services) in the prescribed operational area of Malaysia only, in direct support of operations in Malaysia for 90 days or more, in the aggregate, during the period 31 August 1957 to 31 December 1966 inclusive.

**Notes:**

1. Sorties from bases outside of the operational area as prescribed at a. above will not qualify. Only service by those on the posted strength of bases in Malaysia and Singapore, and in cases where the sorties have been mounted from those bases, will qualify.
2. Service may be aggregated in relation to a. and b. above. This is calculated on the basis that service of one day in the operational area is one day towards qualification for the medal and service of two days in the secondary role is calculated as one day, all towards an aggregate of 90 days. For example, a person who has 10 days service in the operational area and 160 days service in the secondary role, will qualify for the medal on the basis of  $10 + (160 \div 2) = 90$ .

**Category 2:**

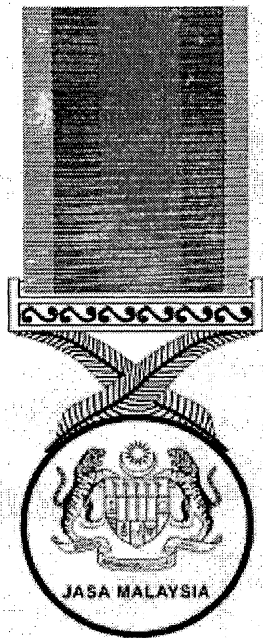
Qualifying service during the period 31 August 1957 and 31 December 1966 inclusive, as described in Category One, may be deemed to have been established notwithstanding a member of the Australian Defence Force has not met the qualifying period described if service was terminated due to the death, evacuation due to illness or injury or other disability due to service.

**General:**

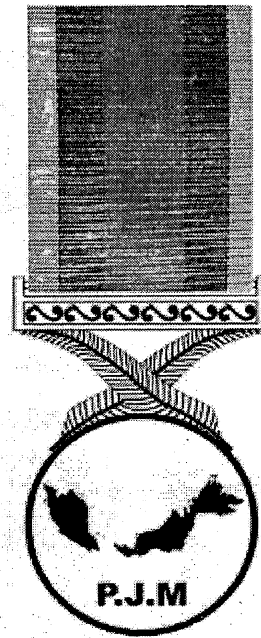
- There will only be one award of the medal to a person unless otherwise advised. Should the medal be lost or destroyed, it will not be replaced at public expense.

- Individual applications made directly to the Malaysian Government for an award of the medal will be referred back to the Australian Department of Defence for an assessment and verification of service.
- Applications for those Australian citizens who served in a civilian law enforcement capacity will be forwarded to the Department of the Prime Minister and Cabinet for validation. Once satisfied that service has been validated or attested to, the Department of the Prime Minister and Cabinet will seek the Governor-General's approval of acceptance and wearing of the award.

## PINGAT JASA MALAYSIA



OBVERSE



REVERSE