

SUBMISSION TO AMEND
THE DEFENCE ACT 1903
REGARDING THE WEARING OF UNAUTHORISED MEDALS OR DECORATIONS

Many veterans and members of the public have expressed their ongoing concern regarding the wearing of unofficial or bought or (unofficial) commemorative, medals on the left breast. This matter has again been raised by many veterans, through letters, emails and personal representations, especially as the result of criminal charges being laid against the previous President of the Ex-POW Association. Many of these correspondents mentioned that there is an increasing number of incidents where veterans and even non-veterans are buying unofficial medals (“medals” that have not been approved by Her Majesty The Queen, the Governor-General or by the Australian Government) and wearing these “medals” on their left side.

Australia’s Honours and Awards System has been recognized throughout the world as being beyond reproach. Medals have never been awarded without detailed justification. Indeed the recently amended *Defence Legislation Amendment Bill* has increased the penalties awarded for personnel wearing “official” medals to which they have no entitlement. However there is no corresponding legislation to preclude anyone, veteran or non-veteran, from buying any number of unofficial medals, and wearing these on their left breast, either with or without official medals, with impunity. To the general public these people appear to be veterans who have rendered long and invaluable service to their Nation. In reality they are denigrating the real “official” medals, worn with justifiable pride by veterans. They also dishonour our fallen veterans who have given their lives for our Nation.

Many of the official medals, worn by veterans, have been awarded for active service which has involved the loss of life or seen personnel wounded physically or psychologically. However there is no law preventing anyone going out and buying as many unofficial or unauthorized “medals” as they like. Veterans have no objections to anyone buying these unofficial “medals”, but there should be appropriate legislation to preclude the wearing of such “medals” on the left side on occasions when official medals are worn. Unofficial medals should be worn on the right side, if worn at all.

An excerpt from the Australian Defence Act 1903, as amended, highlights the inadequacy of our current legislation governing the wearing of “service decorations”:

80B Improper use of service decorations

- (1) *A person is guilty of an offence if:*
- (a) *the person wears a service decoration; and*
 - (b) *the person is not the person on whom the decoration was conferred.*

Penalty: 30 penalty units or imprisonment for 6 months, or both.

(2) *Where the person upon whom a service decoration was conferred has died, it is not an offence against subsection (1) for a member of the family of that person to wear the service decoration if the member of the family does not represent himself as being the person upon whom the decoration was conferred.*

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the Criminal Code.

(3) *It is not an offence against subsection (1) for a person to wear a service decoration in the course of a dramatic or other visual representation (including such a representation to be televised) or in the making of a cinematograph film.*

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the Criminal Code.

(4) A person shall not falsely represent himself as being the person upon whom a service decoration has been conferred.

Penalty: 30 penalty units or imprisonment for 6 months, or both.

(5) A person shall not deface or destroy, by melting or otherwise, a service decoration.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

As can be seen, this legislation makes no mention of the wearing of non-service decorations, that is “decorations” which have not been authorized by the relevant authority.

The fact is we have many veterans, and non-veterans (even those who have never served in our Defence Force) who are wearing bought, unofficial “medals” on their left breast and, despite the best efforts to discourage them from continuing this practice, they continue to do so. Unfortunately, the RSL cannot even exclude them because there is no legal basis to do so.

It is acknowledged that the Australian Federal Police already have a heavy workload and that, due to the other priorities and the low penalty attached to such an offence (if such an offence existed), it is unlikely that the Police would give any priority to prosecuting offenders under such legislation. However, if the legislation was amended to allow the wearing of only officially approved medals on the left breast, it is considered that most law abiding citizens will abide by the law. At least, then, the RSL can cancel the membership and refuse entry to those who continue to wear unauthorized “medals” on their left breast. Veterans and the media can then put pressure on those who wear bought “medals” on their left breast to discontinue doing so as it would be illegal. Offenders could be reported to the Australian Federal Police who could take appropriate action when workloads permit.

An alternative approach would be to have such an authority delegated to the State Police Forces who could institute an on-the-spot fine.

If we do not do something to preclude the wearing of these unofficial medals on the left breast, our highly regarded Honours and Awards system will become a sham. The general public cannot tell the difference, and often grant these pretenders the same courtesies as veterans.

It is recommended that the Defence Act 1903 be amended to make it an offence to wear unauthorized medals, decorations or awards on the left breast, except as authorized under Section 80B(3) of that Act. It is recommended that Section 80B of the Defence Act be amended by adding the following additional subsections:

(4) A person is guilty of an offence if:

(a) the person wears an unauthorised decoration or medal on the left breast.

Penalty: \$5,000.00 fine or imprisonment for 24 months, or both.

Note: "Unauthorised" means not approved by the relevant Australian authority.

(5) A person is guilty of an offence if:

(a) the person wears a foreign decoration or medal on the left breast, in Australia, without first having received formal approval from the Governor-General to wear such a decoration or medal.

Penalty: \$5,000.00 fine or imprisonment for 24 months, or both.

Notes: "It is not an offence to wear foreign decorations in the country which conferred the decoration or medal on the recipient, even though the recipient may not have received the approval of the Governor-General to wear such decoration or medal in Australia.

A person who has received approval from the Governor-General to wear a foreign decoration or medal shall not be entitled to use any post nominals or honorifics, such as "Sir" for any foreign knighthood, which would normally be accorded to the recipient within the country which awarded the decoration and/or presented the medal.

It is further recommended that the "Note" to sub-section 80B (2) be amended as follows:

Note: The defendant bears an evidential burden in relation to the matter in subsection (2). See subsection 13.3(3) of the Criminal Code. When such medals or decorations are worn, the family member is to wear these medals on their right breast.

It is further recommended that:

(6) If an award is subsequently upgraded, after review, for the same action or service, then only the upgraded award is to be worn and only the post-nominals [if any] of the upgraded award are to be used. For example if the recipient of a Medal of Gallantry (MG) has that award upgraded to a Star of Courage (SC) for the same action, then the recipient is to wear only the SC and not both the SC and the MG. The recipient is to use only the post-nominal of SC and not both SC, MG.

Similarly if a member of the public is the recipient of the Medal of the Order of Australia (OAM) and is subsequently awarded the Member of the Order of Australia (AM) for the same service for which the OAM was awarded then only the AM is to be worn and only the post-nominal AM is to be used.

If however the second award is for an entirely different service or action then both awards are to be worn and both post-nominals are to be used. For example a member of the Australian Defence Force (ADF) is awarded the AM for service in the ADF and then subsequently is awarded an AM for service to the community then both AM awards are to be worn (AM, AM [Mil]) and both post-nominals are to be used.

These amendments are designed to maintain the integrity of our Nation's valued Honours and Awards system and to penalize those who illegally wear official medals and or decorations as well as unofficial or unauthorized "medals" on their left breast.

It is readily acknowledged that the proposed amendments to the Defence Act 1903 may have to be re-drafted by those versed in constitutional law. However, there would be no additional costs incurred by the Government and it is believed that such amendments will be supported by the veteran community, by the Australian Defence Force and by the general community.

For your consideration.

Yours sincerely,

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