

[18/10/99 President's Report](#)

SPECIAL NOTICE NOVEMBER MEETING

South East Queensland and Northern New South Wales Members.

Sunday 21 November 1999, the General Meeting is to be held at Surfers Paradise RSL Club. Level 1, No 9 Beach Road, Surfers Paradise. Committee meetings 1100hrs. Lunch 1200hrs General Meeting 1300 hrs.

This is the FESR reply to the Repatriation Commission and Defence submissions to the SEA Review. The main response will be sent from the Naval Association of Australia.

The Secretary

REVIEW OF SERVICE ENTITLEMENT ANOMALIES IN RESPECT OF SOUTH EAST ASIAN SERVICE 1955-1975

Russell Defence Complex
CANBERRA ACT 2600

18 October 1999

Submission Regarding the Submissions by:

1. The Repatriation Commission
2. Defence Submission Concerning Australian Honours and Awards
3. Defence Submission Concerning Determination of Eligibility for Repatriation Benefits

We write in relation to the above submissions, as they relate to, Navy service in the Far East Strategic Reserve during the course of the Malaya Emergency 1955-1960.

Before addressing the above Submissions, we make comment on the undated letter from the Hon. Bruce Scott, MP – Minister for Veterans Affairs and Minister Assisting the Minister for Defence (copy attached).

We are concerned that this letter attempts to direct the Reviewers as to their findings and recommendations. The fifth paragraph offers an interpretation of 'anomalies'. General Mohr is a former Judge Advocate to the Australian Defence Forces and a former Justice of the Supreme Court of South Australia, as such, we would think it unnecessary for the Minister to be offering legal interpretations of such words. The same paragraph contains the sentences; "...There are many examples of dissimilar entitlements due to different circumstances and service, and this is entirely appropriate. These can result from clearly stated decisions of Government and are intentional and proper (sic)...". Whilst we would agree that the intention of Government policy, in relation to some matters before the Review, is clear, we question whether they are 'proper'. If they are 'proper', the Review, and its recommendations, is a waste of time. If all Government positions are 'proper', why are we having this Review? And why is legislation ever amended or revised?

There is a degree of unrest among our members regarding the Minister's letter. To date we have been at ease with the conduct and form of the review. However, we are concerned regarding this late intrusion.

1. A SUBMISSION BY THE REPATRIATION COMMISSION

THE TASK OF THE INQUIRY

This section appears to be interpreting and directing the Review regarding its 'Terms of Reference' and duties. We feel that this is both unnecessary and inappropriate.

THE GENESIS OF THE INQUIRY

A statement of the obvious.

PURPOSE OF THE SUBMISSION

No comment.

HISTORICAL CRITERIA FOR REPATRIATION BENEFITS

We have no comment on points 6, 7 or 8.

Point 9 is misleading and, in some instances, irrelevant:

“Service Pension has always been restricted to those who, while engaged in operations against the enemy, faced danger from the hostile forces of that enemy”.

This, the first sentence of the paragraph, which forms Point 9, is false. Service Pension is available to anyone who has been ‘allotted for duty’. Allotment, in many cases, takes place after the deployment forces outside Australia, but before their arrival at their destination. It is impossible to know whether those forces will face danger from hostile forces of the enemy, or not.

Point 9, including the Thompson decision in the Federal Court, relates to people whom were not ‘allotted for duty’. The question in relation to our case is the exclusion from allotment of the Navy in Malaya, as opposed to the treatment given to the Army and RAAF who served in the same area, at the same time. They were allotted. It is worthy of note that there was no ‘incurred danger’ test applied to Army or RAAF in this circumstance.

THE NATURE OF AN ANOMALY

Whilst we wonder why General Mohr would require this interpretation, we have no comment.

HANDLING OF CLAIMED ANOMALIES

No comment.

FACTORS TO BE CONSIDERED

This section outlines the current requirements and regulations. It ignores the two factors that are at the centre of this issue:

- (a) Equity – the Army and RAAF were granted full entitlements after 24 hours;
- (b) Allotment – none of the requirements of the above section are relevant if a person was allotted.

The content of this section is negated by allotment. The Army and RAAF were allotted for service in the same place, at the same time as that which applied to the Navy. As a result of that allotment, they received full recognition and entitlements. The anomaly is that the Navy was excluded for no apparent reason.

OPERATIONAL SERVICE AND QUALIFYING SERVICE

No comment.

USE OF CAMPAIGN MEDALS AS A MEANS OF DEEMING SERVICE

At point 29 there is an attempt to link ‘incurred danger’ with the award of the NGSM (Malaya). There is no such requirement contained in the Royal Warrant.

THE DEPLOYMENTS IN THE TERMS OF REFERENCE

Far East Strategic Reserve – (FESR)

This section attempts to denigrate navy service with the FESR during the terms of the Malaya Emergency and the Borneo/Indonesia Confrontation. These were periods of hostility, and involved much more than a role of Commonwealth presence.

At 42, the Repatriation Commission indicates that it believes that closer examination may be in order, for the purposes of qualifying service, of the four ships that bombarded. This seems imply that there may be some sort of eligibility for those ships involved in the secondary role, while denying recognition of those involved in the primary role of the Naval force in Malaya, that is, the maintenance of a naval blockade and intelligence gathering.

In our view, this submission contains and addresses many irrelevant points. It is a rehash of the nonsense that has been put forward as logic over the years.

The anomaly is that the Army and RAAF were granted full repatriation benefits and visible recognition after 24 hours and the Navy was excluded for no reason. The service rendered by the Army and RAAF during those initial 24 hours was often in the same areas, at the same time and performing the same duties, as the sailors of the RAN. The injustice is that this was the only exclusion of recognition for honourable active service by Australian service personnel.

2. DEFENCE SUBMISSION CONCERNING AUSTRALIAN HONORS AND AWARDS

In the main, this Submission addresses 'the 10 CIDA Principals'. We will do likewise:

1. The duties performed by the Navy within the designated area during the term of the Malaya Emergency were well beyond the normal requirements of peacetime. Operation awkward, patrolling, intelligence gathering, constant preparedness to engage the enemy etc. These facts, more than satisfy the requirements of CIDA Principal 1.
2. Since the introduction of the Australian Active Service Medal (AASM) there has been more than one medal awarded for a single period of service. However, in this case, we seek the award of the Naval General Service Medal (NGSM) with clasp (Malaya). The recent award of the Australian Service Medal (ASM) with clasp (FESR), and the award of the NGSM (Malaya) would not constitute double medaling. The ASM (FESR) was issued for service with the FESR throughout the South East Asia area, between 1955-1971. We seek the award of the NGSM (Malaya) for service within the defined area of Malaya during the course of the Malaya Emergency 1955-1960. While some of these periods may overlap, they are separate by nature and geography. A comparison exists with ships that deployed from general FESR duty to escort HMAS SYDNEY to and from Vietnam. The personnel involved received the ASM (FESR) and the Vietnam Logistic and Support Medal.
3. Recognition of the Navy in Malaya 1955-1960 will restore fairness to the system, which has been deserted in relation to the past treatment of this group when, compared with Army and RAAF.
4. This principal is not relevant.
5. There are records to adequately confirm the accuracy of claims.
6. With the allotment of the navy in Malaya, the conditions of the Royal Warrant for the NGSM would be met. There would be no requirement to change the terms or conditions of issue. The same would apply to the AASM.
7. There seems to be no impediment to this.
8. As above.
9. There has been a plethora of new information provided in relation to this issue. The normal standards of fairness will be well served when full recognition and entitlements are awarded to this group.
10. We agree.

Our group considers that it meets every requirement of the 10 CIDA Principles.

3. DEFENCE SUBMISSION CONCERNING DETERMINATION OF ELIGIBILITY FOR REPATRIATION BENEFITS

This submission seems to be similar to that tendered by the repatriation Commission.

It explains the current system of determining eligibility.

All of the requirements of this submission are negated by 'allotment'.

It ignores the inequity of treatment, in relation to recognition and entitlements afforded the ARMY and RAAF in comparison to the Navy during the Malaya Emergency.

This issue, using the requirements and conditions of the three submissions addressed above, can be brought to a satisfactory end by issuing an Instrument of Retrospective Allotment. This single act would deliver the NGSM (Malaya) and full Repatriation Entitlements to the personnel involved, thereby, achieving equity with the Army and RAAF who served during the same period, as well as delivering, long overdue, justice to these men.

Yours sincerely,
Noel Payne
NATIONAL PRESIDENT

