



## **PINGAT JASA MALAYSIA**

### **FIRST UPDATE AND ADDENDA TO THE REBUTTAL STATEMENT DATED 21<sup>st</sup> JUNE 2006**

in respect of the issues raised in the Ministerial Statement presented to Parliament by the Minister for Trade, Investment and Foreign Affairs (Mr Ian Pearson) on the 31<sup>st</sup> January 2006 designed to justify the withholding from British Citizens of formal permission to wear the Pingat Jasa Malaysia

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**on behalf of those who seek the right to wear the Pingat Jasa Malaysia**

#### **DATED**

**6th September 2006**

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## **1. Introduction**

Only ten weeks have passed since I submitted the Rebuttal Statement on the 21<sup>st</sup> June but so much new and fundamental information has arisen that it is necessary to produce a second document that contains updates and addenda to that Rebuttal.

To avoid unnecessary duplication and repetition this document should be read in conjunction with the original Rebuttal. For your convenience, a copy of that Rebuttal is attached.

I use the word 'we' throughout this Update. While I accept full responsibility for the contents of this Update, those contents have been made possible through the research and efforts of a large number of people across the world.

## **2. Key Issues in the Update**

In our Rebuttal, we stated that the PJM recommendation was unsafe because it was based on erroneous information supplied to the HD Committee, and on the inappropriate application of rules. The following are some of the key issues in this Update that add weight to our claims:

1. Missing Files: Relevant files that would assist us in our research are missing from the National Archives. They were removed by the FCO in December 2005 and have not been returned.
2. Wrong Rules: The PJM was judged against the wrong set of rules and provisions were applied retrospectively. Consequently, the Ministerial Statement is fundamentally faulted.
3. The Double-Medal Myth Exposed: The double-medal rule is not long-standing - it is first seen in Foreign Decorations Rules in November 2005, just two months before the Ministerial Statement. Furthermore, it was applied retrospectively.
4. Broken Rules: The double-medal rule has been broken time and time again - having given many examples in the Rebuttal, we add to our notes on the British Accumulated Campaign Service and the Malta 50<sup>th</sup> GC and Russian 40<sup>th</sup> Anniversary Medals.

5. The 5-Year Myth: The 5-Year rule is not long standing - it is first seen in Foreign Decorations Rules in 1969 having previously been applied primarily to British campaign/war medals.
6. Another Broken Rule: The 5-year rule has been broken time and time again. Having given many examples in the Rebuttal, we add to our notes on the Malta and Russian Medals, both post-1969 unrestricted award. The Accumulated Campaign Service Medal also breaks this rule.
7. Key Support Grows: We now have support from Privy Counsellors, Barristers at Law, recent Government (MoD) Ministers who gave their support while still in office - distinguished people who, having considered the facts, now fully support the right to wear the PJM.
8. Their Confusion Abounds: In addition, we provide further evidence of the *confusion, conflicts, obfuscation, myth and spin* that surrounds the faulted PJM recommendation.

It is our submission that in the context of the contents of the Rebuttal and of this Update and the plethora of information that is now available (the totality of our case is an issue in itself that we have asked to be taken into account), the case for the PJM to be given formal permission to be worn is overwhelming.

### **3. Objectives**

Our objectives remain the same.

We seek formal permission to wear the Pingat Jasa Malaysia together with the rest of the Commonwealth to whom HM the Queen has given that permission.

### **4. Review of the Rebuttal**

In preparing this Update and Addenda we first reviewed the Rebuttal.

Following that review, I confirm that there is nothing material to correct or retract. We stand by all that was stated therein in the context of this Update of that Rebuttal.

## **5. Missing Files from the National Archives**

Our research has been hampered because files are missing from the National Archives. These files contain information about the history of Medal Rules and, in particular Foreign Decoration Rules and the 5-Year Rule.

- Either the Foreign and Commonwealth Office or the Cabinet Office removed those files on The 6th December 2005.

*They have not been returned.*

We have been told by the FCO to carry out research ourselves rather than ask questions of them. How cynical of them to make that suggestion knowing full well that they had removed from the National Archives the very files we would need to carry out such research and to check what they had said and done in respect of the PJM!

## **6. “Long Standing” Rules and Principles**

The Ministerial Statement and many subsequent statements by the MoD, FCO, and Cabinet Office place much emphasis on the “long standing” nature of Rules, and they speak of adhering to a number of principles. One would expect to see, therefore, a clear set of identifiable Rules with their provisions uniformly and even-handedly applied to each medal request.

The Straw Rules only saw the light of day in November 2005 – one year after the Malaysians offered the PJM (in 2004) to the Commonwealth forces that served their newly independent country, and eight months after the last request from Malaysia to the British (in March 2005).

And there is even more confusion. When the Straw Rules appeared in November 2005 and were placed in the Commons Library, they were undated. Was that an error or deliberate omission? Clearly, an undated document gives the civil servants considerable scope to manipulate both the application of Rules and the individual provisions of the various sets of Rules. This was experienced during the Suez Canal Zone campaign when, for many years, the MoD relied upon undated memo’s to support their story (the undated memo’s were eventually found to contain misleading information).

We have asked and, up till today, have not received any answers to the following questions:

- Did the Straw Rules replace both parts of the 1969 Regulations?
- If so, on which date did they replace the 1969 Regulations?
- If not, which version of rules did they replace?

We have proceeded on the basis that the Straw Rules, had they been dated, would have been dated November 2005.

## **7. Legal Basis of the Foreign Decorations Rules**

This is an opportune point in this Update to review the legal basis of the Foreign Decorations Rules.

The award of honours, decorations and medals is a prerogative of the Crown that is exercisable by Ministers. As such there is no statutory basis for the award of medals, including those offered by Foreign (including Commonwealth) governments.

Parliament has no role in determining the rules and procedures by which medals can be bestowed but surely Parliament must have a role in those aspects of the honours system where the rights of British citizens are affected by decisions created by unelected civil servants and promulgated in Parliament via Ministers exercising the Royal Prerogative.

The Rules Governing the Acceptance and Wearing of Foreign Medals are determined by the FCO.

But HM the Queen approves each change to the Rules, and each exception to them.

The Rules are Deposited Papers in the Commons and Lords Libraries.

In 1988, the Foreign Decorations Regulations (note the term “Regulations”) were referred to in the Commons as being the rules in the Commons Library and operative at that time (1988). Those Regulations were dated 1969 and are in two quite separate Parts. Part A concerns the “Acceptance and Wearing by Persons in the Service of the Crown of Orders Decorations and Medals”. Part B applies to those **not** in Crown Service. We shall refer to these Regulations as “the 1969 Regulations”.

As far as we can tell (see 1. *Missing Files from the National Archives* above), the next set of ‘rules’ to be placed in the Commons Library are the Rules the Rt Hon Jack Straw MP, as Foreign Secretary, placed there on the 21<sup>st</sup> November 2005, the “Rules Governing the Accepting and Wearing of Foreign Orders, Decorations and Medals by Citizens of the United Kingdom and Her Overseas Territories” (note the term “Rules” as opposed to “Regulations” in the 1969 papers) which we shall refer to as “the Straw Rules”.

The 1969 Regulations were re-issued and replaced by the Straw Rules that were deposited in the Commons on the 21<sup>st</sup> November 2005.

Taking the date the rules are deposited in the Commons as the operative date, the 1969 Regulations applied through to November 2005. Unless, of course, the FCO is changing the rules as they go along without any formal pronouncement.

*Whilst there may be no statutory basis for the honours rules, there is a clear need for transparency and openness when the Royal Prerogative is being exercised by Ministers (on the advice of unelected civil servants) and the application of those honours rules is promulgated through Parliament, as in the Ministerial Statement, and when the results of the application of those honours rules affect the rights of British citizens.*

We comment further on these issues at 27. *Is It Lawful?* below.

## **8. The Wrong Set of Rules Was Invoked**

The Commons Library has advised us that the 1969 Rules were re-issued in November 2005.

We have been told by the FCO that:

- the rules that apply to any medal request are the rules in force *at the time of the request*,
- and that the rules that were applied to the PJM were the Straw Rules of November 2005.

*Consequently, the PJM was assessed against the wrong set of rules.*

## **9. Newly Introduced Provisions Were Applied Retrospectively**

Malaysia ‘formally’ requested permission to award the PJM some eight months (and possibly much earlier - see *11. British Veterans Last in Line? Below*) prior to the Straw Rules being deposited in the Commons Library.

*The Straw Rules of November 2005 are the first to incorporate any reference to double-medalling.*

*The Straw Rules were introduced after the PJM was offered and so the new double-medal provisions of the Straw Rules have been applied retrospectively.*

## **10. The 1969 Regulations - No Double-Medal Rule**

The 1969 Regulations *do not* contain any double-medal provisions.

Consequently, if those Regulations had been applied, one of the two objections against the PJM could not have been raised.

*As we said in the Rebuttal, the PJM has been assessed incorrectly and the right to wear has been withheld on erroneous grounds.*

## **11. “Long Standing” Rules - The Twin Myth**

Whichever set of rules apply, it is now abundantly clear that neither the double-medal rule nor the 5-year rule can be considered “long standing” in the context of Foreign Decorations rules.

And neither rule has been adhered to in any uniform (pardon the pun) manner.

*This spurious claim is just one more example of the dishonourable application of spin that prevents British veterans from wearing the honourable PJM.*

## 12. British Veterans Last in Line?

Despite the careful choice of words used by the FCO implying that offers from the Malaysians only appeared in 2005, the existence of the offer of the PJM was well known to everyone in 2004. Indeed, a question was tabled in the House of Lords on the 22<sup>nd</sup> December 2004.

Baroness Symons replied to that question in a written reply on the 11<sup>th</sup> January 2005, and she stated that the PJM had not been offered to the UK at that time. The other Commonwealth countries had been approached - was Baroness Symons stating that the UK had not been approached?

Mr Straw stated in a written reply in the Commons on the 19<sup>th</sup> October 2005 that the PJM was formally raised with him in March (2005). That would be some six months after Australia and New Zealand were offered the medal. But our well informed sources tell us that the offers were made to *all* Commonwealth countries at the same time, and that would have been in 2004.

It is difficult to understand why the Malaysians would offer the medal to the British at a later time to other Commonwealth countries such as Australia and New Zealand - or, indeed, how they could refrain from offering it in the context of the medal's Citation and the media and diplomatic coverage the medal received throughout the world in late 2004.

The FCO, on the other hand, state that the PJM was first offered to the British on the 17<sup>th</sup> February 2005 but the Malaysians subsequently asked that no action be taken on their request. One can only speculate why.

A second request, referred to by the FCO as the 'formal' request, was made on the 17<sup>th</sup> March 2005.

Are we seriously being asked to believe that the Malaysians would not advise the British at the same time as the rest of the Commonwealth?

Is it possible that an announcement of a 'formal' request was delayed while the window dressing took place in preparation for the manipulation of the rules, the media and ... the British veterans?

Just as the eventual Ministerial Statement was cynically delayed to allow HM the Queen's Representative in Australia to receive his PJM and thus not be embarrassed to do so after he had heard that British veterans would be denied similar rights? HM the Queen's Representative received his wearable medal on the 30<sup>th</sup> January 2006 - the Ministerial Statement promulgating the news that the British would not receive a wearable medal was made the following day, the 31<sup>st</sup> January 2006.

### **13. The Twin Myths - The Double-Medal Rule Remains a Myth**

The Ministerial Statement refers to “two of the long-established Rules governing the accepting and wearing of foreign (including Commonwealth) awards”. Although the Ministerial Statement is not clear on this point, it is a reasonable assumption that one of the two rules is “if the recipient has received a British award for the same service”, i.e. double-medalling.

- If the 1969 Regulations applied to the PJM, there is no double-medal provision in those Regulations.
- If the Straw Rules applied, then the double-medal objection has been raised retrospectively.

Furthermore, and as demonstrated in the Rebuttal, any time constraints on a medal were applied typically to British campaign or war service and not to Foreign Decorations. Therefore, at some time between the early 1950's and 1969 the civil servants had misappropriated this rule and changed its intrinsic meaning in order to try and apply it to circumstances (Foreign Decorations) *that it was never originally intended to address*.

In the Rebuttal we offer many examples of double-medalling since 1969 not only amongst British medals but also Foreign awards such as the Russian and Malta Medals in the post-1969 mid-1990's.

But, in any event, by no stretch of the medallic imagination can 1969 be considered “long standing”.

### **14. The ACSM - A Double-Medal by any Double Standards**

In our Rebuttal we claim that the ACSM runs a horse and cart through the alleged double-medal and 5-year rules. The MoD may try to dispute that.

But we now know that:

- The ACSM is a blatant example of double-medalling, or
- the reasons given by the MoD for it not being so must also apply to the PJM and so our medal cannot be a double-medal either.

The double-medal rule was raised by the HD Committee as an objection to the PJM receiving formal permission to be worn. We have rebutted this superficial objection in a number of ways, not only by mentioning the thousands of men and women eligible for the PJM who have no British medal (which is fairly fundamental!), but also by quoting countless examples of double-medalling, including the Accumulated Campaign Service Medal (ACSM).

We stick to our metaphorical guns on the ACSM being a blatant case of double-medalling. The MoD will not, of course, readily accept our argument, one that is quite straightforward - if, to qualify for the ACSM, you must already have a campaign medal, then you will land up with two medals for the same service and that is double-medalling.

The MoD inexplicably explains that the ACSM “is not double-medalling any specific period of service. If an individual had received the GSM with a clasp and the ACSM for the same period of service, it would have been double-medalling”.

The corollary of their claim is that if the ACSM is not awarded for the same period of service, it cannot be a double-medal.

And therein is the nub of the problem for those at the MoD, FCO and Cabinet Office who have claimed that the PJM created a double-medal situation. For if the MoD’s claim for the ACSM is accepted by them (that the ACSM is not a double-medal), then the PJM cannot be considered to be a double-medal either in the context of its eligibility criterion of 90 days which is quite different to that of the British GSM’s (e.g. 1 day to 30 days) and thus there is no correlation to the same period of service, ergo no double-medalling. And I would mention again the British veterans who did not receive any British medallic acknowledgement for their services.

### ACSM - The Abundance of Double-Medals

Then there is the second problem when considering the status of the ACSM which, despite the MoD's statement to the contrary, does create an abundance of double-medals.

The MoD state that the ACSM "was introduced to recognise that many service personnel were carrying out repeat medal-earning tours, but had no medallic recognition for this" presumably because the tours were in respect of one clasp. But as we understand it, personnel can qualify for the GSM with seven clasps and six medals (South Atlantic Medal, Gulf Medal, Iraq Medal, and Operational Service Medals for Sierra Leone, Afghanistan and the Congo) and can use all that service from all those thirteen clasps and medals to count towards their eligibility for the ACSM.

Clearly, that situation not only defeats their argument for the role of the ACSM, but it also demolishes their claim that the ACSM does not double-medal.

### ACSM - Back to its Origins - Northern Ireland

Those who have in the past supported the MoD's contentions about the ACSM (that it does not double-medal) have a third difficulty.

The MoD refer to the ACSM and its close connections with Northern Ireland where some claim the medal's origins lie, albeit they say not exclusively for service in the Province. But we think they must have had the Northern Ireland experience in mind when claiming that the role of the ACSM was to acknowledge repeat tours over a long period of time resulting, in the absence of the ACSM, in just one clasp.

However, as we understand it, the introduction of the MoD's Accumulated Campaign Service Medal (even the title of the medal screeches out 'duplication' of awards) has led not to double-medalling but to treble medalling in Northern Ireland.

For is it not possible for personnel to be awarded the GSM (Northern Ireland), the Accumulated Campaign Service Medal, and the Northern Ireland Home Service Medal? *All three medals awarded for one single campaign?*

### Double Trouble - the 5 Year 'Rule'

Then there is the fact that the Accumulated Service Medal knocks the alleged 5-year 'rule' into touch once and for all.

The medal specifically recognises services and events more than five years ago. Indeed, the ACSM can recognise service some 37 years ago. *Service from 14<sup>th</sup> August 1969 can count towards eligibility for this medal.*

It is our contention that:

- The Accumulated Campaign Service Medal is, by definition, a double-medal, with examples of triple medalling.
- The MoD's argument about 'same service' serves to underline that, on the same principle, the PJM could not be categorised as a double-medal.
- The medal makes a mockery of any claim to integrity for the 5-year 'rule'.

We wish to emphasise that we are not critical of the ACSM, and have only respect for those who have earned it, but we believe that when you consider the PJM in the 'light' of the arguments surrounding the ACSM, that 'light' casts shadows not only on the spurious double-medalling objection to the PJM but also on double standards, on treble medalling, and leads to selective bureaucratic amnesia concerning the 5-year rule.

### **15. The Twin Myths - The 5-Year 'Rule' Remains a Myth**

We first addressed this issue, which is a key one for the FCO and Cabinet Office, in the Rebuttal. It requires particular attention because, in our view, it has been surreptitiously amended and, ultimately, imported from British campaign medal rules and inappropriately incorporated into Foreign Decorations Rules - and that was done in 1969 at the earliest (and so cannot be judged 'long standing'). Post 1969 this 'rule' has been selectively disregarded in order to accept medals for wear in the mid-1990's (e.g. the Russian 40<sup>th</sup> Anniversary and the Malta 50<sup>th</sup> Anniversary Medals). If the Russian and Malta medals can be worn, why cannot the Malaysian Medal?

We use the word 'myth' with care in order to differentiate between it and a 'rule'. While a 'rule' could be summarised as "an authoritative, prescribed direction for conduct", a myth is quite different. We see a myth as being "a fiction or half-truth, especially one that forms part of an ideology." Of course, where a 'rule' affects one's rights, we would expect the prescribed direction to be in written form thus clearly demonstrating that our rights are not being denied on the grounds of a 'myth'. This is particularly important in the United Kingdom where we do not have a written Constitution.

The FCO claims that this is a "long standing" rule within Foreign Decorations Rules but so far has not produced any papers in evidence. The National Archives are unable to trace any documents that can help but, as mentioned at 5. *Missing Files from the National Archives* above, they have told us that the FCO has removed all the files.

Because this manipulated 'rule' may become the last refuge for the FCO's defence of their spurious claims, we are anticipating some sort of eleventh hour 'rabbit out of the hat'. Is it possible that the prolonged retention of the National Archive files by the FCO or Cabinet Office is aimed at preventing us from doing our homework that would show that 'rabbit' to be what it is? Or are they 'working' on those missing files?

The National Archives have been extremely helpful and have told us that they cannot trace any papers within the files that remain in Kew (or any index to files) explaining the FCO/Cabinet Office claim that the 5-Year 'rule' is a "long standing" rule within Foreign Decorations Rules. As explained in the Rebuttal:

- It is not a "long-established" rule in the context of the 650 years of the Honours System - a time-barred limitation was 'encouraged' by civil servants after the end of WW2 specifically to cover the anticipated influx of requests for British medals following the end the war. *It had nothing whatsoever to do with Foreign Decorations Rules.*
- Typically the 'rule' is not raised as an objection when there is a political will to accept a medal.
- Even those who endeavour to apply it have misunderstood it.
- A 5-year limitation is inappropriate to a "Commemorative Medal" which would normally only be awarded after a period of time has elapsed from the time of the service.

- Eligibility for a medal introduced by the MoD in 1994 specifically provides for service carried out up to 37 years ago. *That medal is still being awarded* (see 14. *The ACSM - A Double-Medal by any Double Standards* below).

And so we have a rule aimed at British campaign medals which have, as we mention elsewhere in this Update, quite different criteria attaching to them compared with Foreign Decorations.

The usual explanation for the 5-year rule is that the HD Committee will not 're-consider' a previous Committee's recommendation. The rule is there, they say, because the HD Committee cannot put itself in the place of the Committee sitting when a medal was first considered - *clearly that is not relevant to the Malaysian medal that was offered in 2004.*

A second explanation is that the HD Committee cannot 're-consider' a judgement made by British Commanders or Chiefs of Staff at the time the medal was first considered - again, *this cannot apply to a Foreign Decoration like the PJM.*

Whatever may be said by the FCO and Cabinet Office, medals have been recommended for acceptance *and wear* since 1969. And prior to that, many medals were issued more than five years after the events or service and some are listed in the Rebuttal.

Since writing the rebuttal we have discovered (subject to scrutiny of the missing National Archive files) that this 'rule' was first contained in the 1969 Regulations. Prior to that, the rule was used essentially in British Campaign medal situations (but was typically not invoked even in such situations). The Ministerial Statement is misleading - the 5 year rule is not "long standing" within Foreign Decorations Rules.

The application of the rule is clearly inappropriate to the PJM which the FCO has described as both a Commemorative Medal and a Commemorative Service Medal. How can anything 'commemorative' be rejected on the grounds of timescales? The very word is resonant of something in the past.

The inappropriateness of the application of this rule can be seen in the medals that have been approved for both acceptance and wear post 1969 - British medals such as the Accumulated Campaign Service Medal and Suez Canal Zone Medal, and Foreign Decorations such as the Russian 40th Anniversary and the Malta 50th Anniversary Medals which are prime examples of the absence of any 5-year 'rule'.

In reality the 5-Year rule is used only to deny ordinary men and women the right to an honour – and is disregarded in circumstances when it suits the civil servants for whatever reasons.

#### **16. The Russian “40th Anniversary of the end of the Great Patriotic War Medal”**

It is important to revisit this medal which is a classic case of both double-medalling and medalling more than five years after the events, in this case 50 years after events or services which it acknowledges.

This medal also demonstrates that it is the political imperative that determines if such medals should be worn or not. It has nothing whatsoever to do with principles as suggested by the Cabinet office.

The Russians offered this medal in 1985 to all those employed in Russia or on the re-supply convoys. The FCO initially rejected this medal because, according to Anthony Wedgwood Benn it was because we were supplying the Soviets - and “Soviets” were not seen to be that ‘politically correct’ at the time.

But ten years after the medal had been rejected, it was accepted by HM the Queen (unrestricted - so it could be worn) “in view of the changed position of and progress made by the Russians”, i.e. on the grounds of the changed political circumstances in Russia.

The application and interpretation of so-called rules in this ad hoc manner is neither reasonable nor logical. And, in any event, if a Russian medal can be awarded in this fashion, then why reject a request from a Commonwealth ally, particularly one that is predominantly Islamic, moderate, and is totally supportive in today’s war on terror.

#### **17. The Malta “GC 50th Anniversary of the end of the War Medal”**

In our Rebuttal we referred to this medal because it is yet another classic case of a double-medal that was accepted for wear not 5 but 50 years after the events or services that it acknowledges.

The Malta medal is similar to, but not on all fours with, the PJM in terms of what it acknowledges (risk and rigour to one side for the moment) and the fact that it was offered more than five years after the events. It was interesting to read that Prince Philip is entitled to wear it - and a well-deserved medal it is, of course.

The Malta Medal received HM the Queen's approval in 1992 for both acceptance and wear:

- It is a medal from a Commonwealth country, and
- it was approved for wear by HM the Queen 50 years after the event, and
- it was an obligatory double-medal situation (it was a requirement that British applicants had to be eligible for the Africa Star).

The Malta medal was granted unrestricted status not that long ago in 1992, about the same time as the Russian Medal (1994) which was also granted unrestricted status 50 years after the events.

*Yet the PJM, which is not a double-medal and does not require any applicants to be eligible for any other (British or otherwise) medal, is not granted permission to be worn (which condition only applies to British citizens).*

Clearly, in that context one cannot defend the withholding of the PJM. And so, we wonder, did the civil servants have another reason for trying to reject the PJM for wear? And if they did, we wonder what that reason might be.

#### **18. Medals approved *because* they were Double-Medals?**

In our Rebuttal we refute the twin myths of double-medalling and the 5-year 'rule' and we refer to the Malta 50<sup>th</sup> Anniversary and Russian 40<sup>th</sup> Anniversary medals as classic examples of medals approved in the 1990's that break both those rules.

The PJM is not a double-medal - even the MoD has now inferred as much. But is there another reason for rejecting the Malaysian medal?

Was the PJM rejected for wear because, unlike the Malta and Russian medals, it is *not* a double-medal and the double-medal accusation was designed to camouflage that very fact?

In the context that the MoD has destroyed many relevant service records and the fact that they simply do not want to undertake the task of checking service records, was the PJM rejected for wear *for the very reason, ironically, that this honourable medal does not impose a double-medal?*

Without a double-medal it would be more difficult to check service records? If it were to be a double-medal then checks would be that much easier through existing and readily available Medal Rolls.

### **19. Inappropriate Criteria**

There is considerable confusion within the MoD, FCO and Cabinet Office about the criteria on which medals are judged. For example, while some clearly state that the British campaign medal criterion of Risk and Rigour has been applied to the PJM (allegedly a Foreign Commemorative (Service) medal), at the same time others state that it is not appropriate to apply the British campaign criterion risk and rigour to medals such as the PJM.

So which is it? Both? But only one can be correct. So those who influence the HD Committee do not themselves know how to judge the PJM! But judge it they have - incorrectly.

The PJM is not, despite various utterances to the contrary from e.g. the Cabinet Office, a medal to which risk and rigour is applicable (they stated that “Each campaign is considered according to the levels of risk and rigour involved”). *Is it being suggested that the Pingat Jasa Malaysia cannot be worn because one aspect taken into account in the keepsake recommendation reflects the view that not enough blood was spilled or insufficient bone or flesh or nerves were shattered?* The whole point about our success is that it was achieved specifically because *we prevented* unnecessary loss of life and wounding both physical and mental.

Anyway, it is certainly not a matter for the British Government (essentially the civil servants) to judge the validity of a Foreign Commemorative (Service) Medal such as the PJM against its own British campaign medal criteria.

### **20. Confusion over Commemorative and Campaign Medals - and the PJM**

The FCO and Cabinet Office are central to the whole PJM issue. But, as demonstrated in the last section of this Update and in the Rebuttal, they show that they do not understand what the PJM is all about or which nomenclature should be attached to it. Is it a Campaign Medal or a Commemorative Medal or a Commemorative Service Medal? Or even a Medal for Service or a Foreign Campaign Medal for Service? All those terms have been used.

- The Ministerial Statement prepared by the FCO refers to a “commemorative medal ... for service”,
- but the Cabinet Office wrote to us to the effect that the PJM is a Campaign Medal stating “Each campaign is considered according to the levels of risk and rigour involved”.

Which is it? *This is a question you would expect those who apply the medal rules to understand.* But they do not. The criteria for each are quite different and, in the context of the application of Foreign Decorations Rules, it is fundamental to understand the difference ... particularly if you are a judge about to pronounce judgement.

Here is more evidence that the powers that be do not understand the problem - What exactly is a commemorative medal? Is its status determined by its availability to the general public such as those ‘commemoratives’ (we cannot bring ourselves to say ‘commemorative medals’!) that are sold in shops and some of the proceeds go to the Royal British Legion? Or has it something to do with acknowledging service or an event that happened in the past? Or does it acknowledge a campaign as we do with our British campaign medals?

There is a distinction made in two documents. The Ministerial Statement appears to make a timescale distinction in the paragraph relating to “events and services that took place more than 5 years before initial consideration, or in connection with events that took place in the distant past (e.g. commemorative medals)”. Interestingly, it is only in this Statement (January 2006) and in the allied Straw Rules (November 2005) that we see the explanation “e.g. commemorative medals”. Why? And why now? There was no such qualification in the 1969 Regulations. We believe that the civil servants who drafted both the Straw Rules and the Ministerial Statement included that qualification specifically in order to bolster their forthcoming, poorly founded, rejection of the PJM as a wearable medal.

The Ministerial Statement: The distinction in the Statement is confusing because “events” appears in both the “5 years” definition and also the “distant past” definition, but “commemorative medals” are only included in the events section of the definition. The inference is that if the medal acknowledges an event in the distant past then it is a commemorative. If it does not, then it is something else. The PJM does not acknowledge an event and so is in the “something else” category, but on occasion it is classed as a commemorative.

The Straw Rules: On the other hand, the Straw Rules are less confusing “Requests made in respect of services rendered more than five years previously, or in connection with events in the distant past (e.g. commemorative awards), will not be entertained”. Here we have a clear distinction. Commemoratives are in respect of events in the distant past, whereas other awards are for services rendered more than five years previously.

Now to the PJM. The citation for the PJM refers to “*distinguished chivalry, gallantry, sacrifice or loyalty*”. The Citation is clear but those who judged its impact either did not read the Citation or were unable (or unwilling) to reach a consensus over which nomenclature to allocate to the medal.

This is further corroboration of our claim that considerable misunderstanding, misinformation and disinformation surround the PJM and that that has led to an unsafe recommendation.

## **21. Selective Comparisons**

By referring to campaign risk and rigour, the Cabinet Office demonstrates the least amount of understanding on the issue of the PJM’s nomenclature. In the context of their lack of understanding they expect the reader to accept they have authoritative knowledge when they go on to suggest that medals such as the Kuwaiti and Iraqi medals that were accepted but not for wear have something in common with the PJM. They clearly do not. There is no comparison to be made between them other than the other two were accepted as keepsakes.

In other words, the Cabinet Office selectively chooses to refer to two medals that have nothing in common with the PJM other than the recommendation. Surely they should be looking at the circumstances surrounding each medal request - they claim they do. In this way the Cabinet Office is disingenuously trying to insert an inappropriate comparison in order *to make its story sound right*.

Why did the Cabinet Office not make a comparison between the PJM and the Russian and Malta medals *both of which are more recent awards than the Kuwaiti and Iraqi medals* and the circumstances of which are similar to the PJM? Answer - any such comparison would not have helped their hollow case. In fact, the Russian and Malta medals destroy their case for withholding the right to wear the PJM. The Cabinet Office should have had the integrity to base its arguments on fair and comparable grounds. They did not do so.

## 22. The MoD Reneged

Did the MoD renege on the Malaysian request for the MoD to check records just to avoid having to do exactly that?

Here is what the Ministerial Statement said in January 2005:

“The Malaysian High Commission and the relevant British Government agencies will work together to determine eligible applicants.”

Compare that with what the MoD told us in August 2006:

“The MOD’s involvement is marginal, as agreed with the Foreign and Commonwealth Office and the Malaysian High Commission (MHC). As the medal is not authorised for wear no checks of eligibility are necessary, a very time consuming and specialist job that could only be carried by the Department’s Medal Office, our involvement is limited to ensuring that an appropriate veterans’ organisation has correctly stamped each application.”

By providing information to the HD Committee, much of it *myth and folklore*, the result was that the PJM was declared non-wearable. The MoD Escapology Unit enabled their Department to evade their original responsibilities. And in so doing, British veterans paid the penalty ... we cannot wear (yet!) the medal that is wearable throughout the rest of the Commonwealth.

## 23. Civil Servants - A History of Mythology

In our Rebuttal we state that civil servants have a “long standing” history of involvement in the creation and dissemination of myth and folklore in order to achieve their own ends. Here is a further illustration of our claim. It happened in 2004.

Their questionable stance over the Suez Medal in the ten years or so leading to the time when the medal was eventually agreed for unrestricted acceptance is well known. The issuing of the medal was vigorously denied over that period until eventually the civil servants *were seen to have not released critical information*.

They were also less than forthcoming about the truth in the matter of the Arctic Emblem fiasco.

Initially, through the use of myth, they succeeded in having the request rejected but eventually, after further external scrutiny, they had to concede their position and as a result the HD Committee considered the medal that the Prime Minister had apparently requested. But those mean-spirited civil servants still managed to turn the Prime Minister's medal into a mere emblem.

We have attached an article that tells the story.

#### **24. Civil Servants - Their Role**

In our Rebuttal we point to the power of the civil servants and the role they have to play in decisions that touch on the lives of ordinary men and women - on the rights of citizens of this country. They exercise that power without any clear form of accountability - and they have got used to 'getting away with it'. Here is another illustration that what we say has been said before. It is not just us who make these claims - the role of civil servants and the myth they spin has been written about not only in newspapers but also in at least one authoritative book.

We attach a second article that arose from the Arctic Emblem issue last year. The article underlines the powerful role certain civil servants fulfil - and not always with even-handedness.

In the case of the PJM we have demonstrated that there was a clear bias in relation to the information provided to the HD Committee about:

- the Rules they should use;
- the scope of the PJM;
- double-medalling;
- and the 5-year rule.

In our view that bias has served only to distort reality, which in turn led to an erroneous recommendation made by HD Committee members and, as we claim in the Rebuttal, made without sufficient information and without sufficient facts being equitably addressed.

## 25. Compromising Integrity

The Cabinet Office has written to us to the effect that if the recommendation had provided for formal permission for the PJM to be worn the result would have been to “compromise previous awards and the integrity of the system”.

In our rebuttal we refute this contention on the grounds that the double-medal claim was clearly a sham designed to muddy the waters and strengthen a dubious second objection - the 5-year ‘rule’, which is now seen to be discredited and inappropriately and inconsistently applied (usually to achieve a political agenda).

We have tried to establish what they mean and understand by “compromise previous awards” and “the integrity of the system”. Again, without success - we have not received any answers to our questions.

Surely they do not mean that the honourable PJM is somehow not very respectable. A VC was won during PJM service, as were many other awards for gallantry. The Fight4thePJM campaign is supported by two winners of the Victoria Cross both of whom signed the Petition to HM the Queen. They vigorously dispute their contention about compromising previous awards and the integrity of the system. They support our campaign to wear the medal - as do many others who have gallantry awards and distinguished honours.

It cannot be an assertion that ‘previous’ had anything to do with previous medals awarded by Malaysia in respect of the scope of the PJM - Malaysia was a newly independent nation only once - there could not be any awards prior to 1957.

It is said that in “compromise previous awards and the integrity of the system” they refer to the numbers of medals involved. That cannot be the case here because, as we state in the Rebuttal, more medals are awarded now than in our day. The PJM is not going to add to a growing list of medals worn on today’s uniforms. And it certainly does not create a double-medal. The majority of PJMers *do not have any medalllic acknowledgement of their service.*

The PJM is not a UK medal. It is awarded by a Commonwealth Government to Commonwealth Countries who served in a United Force to combat aggression against Malaya and Malaysia. Surely, HM Government cannot decide unilaterally to change the criteria set by that Commonwealth Government (Malaysia)?

*The PJM should be judged in the Commonwealth context - in term of the service, of the acknowledging country, of the recipient countries, and also in terms of the impact that any discriminatory recommendation may have on the Commonwealth.*

It is not the wearing of the PJM but the incomprehensible recommendation itself that compromises the integrity of the system.

## **26. The Dual Nationality Medal Muddle**

We stated in the Rebuttal that there is considerable confusion in the minds of the Government about who could and who could not wear the PJM.

HM the Queen approved the PJM in respect of British citizens “*on condition that it is not worn*”. There are no exclusions - no exceptions. Our interpretation of that is that no British citizen may wear the PJM.

The Cabinet Office, on the other hand, has stated that British citizens who have Dual Nationality may wear the PJM. The case quoted was an ex-serviceman who, after his PJM service, had emigrated to Australia and had taken on Australian nationality whilst retaining his British nationality.

Yet other statements from Government set out that it is the *nationality at the time the medal is earned that dictates whether it can be worn*.

Then others in HMG tell us that those with Dual Nationality should follow the customs of the country in which they now reside, for example the FCO state that “if a British/Irish dual national wishes to be considered as an Irish national, the Irish Government/s rules and customs will relate to them. If they wish to be considered as British, then the British rules will apply. The British Rules apply to British nationals wherever they live, including in Northern Ireland.”

Which is it? There is nothing in the Ministerial Statement or rules about Dual Nationality - just as there is nothing in that Statement about the wearing of the PJM by British civilians not being policed (is this appropriate advice to give to law-abiding citizens?).

These additional ‘rules’ are being made up as they go along – just like the PJM recommendation was constructed to suit the civil servants agenda on the day.

## 27. Is It Lawful?

Which raises the question - is the basis of the PJM decision 'lawful'. We are aware that the structure of such decisions has no statutory basis (see 7. *Legal Basis of the Foreign Decorations Rules* above), but we have other concerns.

We have been told, "It was on this basis that the rules were pursued and subsequently recommended by the HD Committee," and then "there are no laws governing the accepting and wearing of non-British awards by British Nationals. Such matters are dealt with under the Royal Prerogative where Her Majesty HM the Queen acts on the advice of her Ministers."

Now, what is it to be, the HD Committee or HM the Queen acting on advice of her elected Ministers, or a Royal Prerogative which allows Her Majesty HM the Queen to be involved in pronouncements that ban British citizens from wearing a certain medal.

We have been told that "The United Kingdom has had no intention of discriminating against any groups of people'. Yet British Citizens were told they could not wear the medal whilst Australia, New Zealand, and those with dual nationality (according to the Cabinet Office) could wear it in their adopted country.

When, in the preceding paragraph, they say the "United Kingdom", do they mean the HD Committee, HM the Queen, or the present government? It is an extraordinary expression to use.

We are told that "the rules apply to all British Nationals". How can rules, that have not been promulgated through our elected government and passed into the law of our country, "apply to all British Nationals"?

We are also concerned about how the Foreign Decorations Rules are managed and brought into force. As mentioned above, papers have been deposited but we are unclear as to the effect of such Deposited Papers (if that is what they are). Normally they would have no effect, but in this case, seemingly, *that one action of depositing* has resulted in the imposition of discriminatory and retrospective rules.

What we cannot understand is why the Foreign Office wishes to test these issues simply to deny us the right to wear the PJM?

## **28. The Malaysian Perspective**

We attach an article from a Malaysian Newspaper. The article underlines the importance of the Pingat Jasa Malaysia to Malaysia and to the Malaysian people.

The journalist also draws attention to the Fight4thePJM Lapel Badge and the scope of our support that we discuss below.

It is our contention that the British Government has failed consummately to take the Malaysian view into account, judging the PJM only from its own perspective - *whence it is seen to be an inconvenience*.

For the Malaysians, as set out in their Deputy Prime Minister's speech in July, those nine years were of fundamental importance to them. Those who use and abuse 'rules' will not be able to see the Malaysian perspective because it was for them 'in the distant past'. Not for the Malaysians, though.

For Malaysians, those years remain crystal clear - and they wish to acknowledge what they see. And they wish to present a tangible acknowledgement for what they see.

Everyone understands that such an acknowledgement is tangible only if it is worn.

## **29. The Commonwealth Perspective**

We would reinforce everything we have said in the Rebuttal about the Commonwealth perspective.

It is clearly incongruous that only the British should not be allowed to wear the PJM in the context of the scope of the medal in terms of what it acknowledges and the timescales over which it applies. Such discrimination is nonsensical.

We live in the 21<sup>st</sup> Century. In our Global environment it is not appropriate to discriminate as between countries within the Commonwealth - particularly when the UK has not done this before in the context of medals such as the Malta 50<sup>th</sup> Anniversary Medal. Nor has it imposed such restrictions even over medals such as the Russian 40<sup>th</sup> Anniversary Medal.

We have to question why the British Government seeks to discriminate against its citizens in this particular case. A case in which the key country is a moderate Muslim nation that has graciously offered the award to all Commonwealth countries - not just the UK.

On the rear cover of this Update we highlight just one of the anomalies caused by this divisive recommendation.

### **30. Key Support Grows**

In our Rebuttal we mention how Don Touhig, while still the Veterans Minister, was planning to write to the HD Committee making the case for the PJM to be worn.

Commons Speech - On the 6th July 2006: Mr Touhig summarised his case for the PJM recommendation to be amended so that the medal can be worn by British citizens. In the Commons he asked his successor as Veterans Minister, Mr Tom Watson, to continue his initiative saying:

“I hope that he will press those who advise HM the Queen to review the situation. I should be grateful if he said that he is prepared to do so.”

Letter from Mr Touhig dated 7th August 2006: In this letter Mr Touhig advises us that he has written to the Veterans Minister asking him to contact the HD Committee making the case for PJM to be worn and is awaiting a reply - and *the good news is that Mr Watson has said verbally that he will do so.*

In addition, the Rt Hon Michael Ancram QC MP and the Rt Hon Sir Menzies Campbell CBE QC MP now actively support our right to wear the Pingat Jasa Malaysia.

These are just some of the recent important steps forward in support of our request to have HM the Queen's permission to wear the PJM and that they reinforce what we written in our submissions and in our Rebuttal.

### **31. Worldwide Support Grows**

In our Rebuttal we mention the strength of our support. To properly reflect that feeling of camaraderie that pervades through our campaign, we have had manufactured a Fight4thePJM Lapel Badge with the motto “Pingat Kami - Hak Kami” (“Our Medal - Our Right”).

We have despatched badges to five continents and the countries include England, Northern Ireland, Eire, Scotland, Wales, Nepal, the USA, Canada, Australia, New Zealand, Vietnam, India, China, Fiji, Singapore, Argentina, Thailand, Japan, South Africa, France, Italy, Germany, Sweden, Spain, Portugal, Belgium, Holland, Denmark and, most important of all - Malaysia.

The campaign has considerable and growing support. Over 55,000 visits have been made to our web site and the numbers increase daily. It is a staggering response.

And it is growing daily.

### **32. Summary**

This whole PJM business is in danger of bringing the British Honours System into disrepute. Ordinary right-minded people just cannot understand why two 'rules' (even if they were to exist) have been invoked to allow a medal to be accepted – and then to immediately re-impose the same rules to prevent it being worn. They and the veterans cannot understand why the British should be discriminated against in this unfair manner.

To describe the PJM as a “souvenir and a keepsake” snubs the Agong, the Government and Peoples of Malaysia. We find it incomprehensible that the civil servants, the HD Committee and the FCO cannot, or will not, take account of that aspect. It is certainly seen as insulting in Malaysia.

The souvenir or keepsake nomenclature serves no useful purpose save that of bolstering the renowned obduracy of the civil servants.

It is our submission that in the context of the contents of the Rebuttal and of this Update and the plethora of information that is now available (the totality of our case is an issue in itself to be taken into account), *the case for the PJM to be given formal permission to be worn is overwhelming.*

We have challenged the recommendation on technical, quasi-legal, moral, and 'being harmful to HMG's foreign relations - even policy' grounds.

We have demonstrated that the Pingat Jasa Malaysia is a unique award and its scope is unlike any other medal - or any that is likely to be awarded in the future.

- It is nonsensical that an award for service to a Commonwealth country, an award with scope over a period of nine years, and an award that is fair to all, should not be worn by all Commonwealth forces ... *equally*. Why should anyone want to discriminate against British veterans.

“We served together, fought together and in some cases died together - we should be able to wear the medal together.”

- It is anomalous that a rule should be invoked first to enable a medal to be accepted and then to deny it its rightful status as a medal rather than a keepsake.

There are no provisions within any Foreign Decorations Rules that provide for that hybrid ‘*accept it but you cannot wear it*’ decision - it is a tool of convenience used by the civil servants for their own ends, whatever those ends might be.

The British Honours System is worthy of attracting greater integrity than has so far been shown in its interpretation and application. That system is worthy of the moral courage that is required to rectify the injustice. And British veterans are worthy of the respect of the Government that it once served - a respect that should not deny them the right to wear the medal that they have earned along with their Commonwealth ex-comrades in arms who already have that right.

And it will cost this country nothing - but 35,000 veteran’s lives will be enriched and the Commonwealth united.

And that enrichment is, at the end of the day, what the Agong, Government and Peoples of Malaysia intended. And that is what we thought National Veterans Day wished to achieve in this the 40<sup>th</sup> anniversary of the end of PJM service and in the year before this country sends a high ranking person to Malaysia to celebrate their 50<sup>th</sup> Anniversary of Malaysia’s Independence. The Independence that, through the Pingat Jasa Malaysia, the Malaysians wish to acknowledge that we helped secure.

**Barry Fleming**

**6th September 2006**

**Enclosures:**

[Article from "Portsmouth Today" 24/05/2004](#)

[Article from "Portsmouth Today" 26/05/2004](#)

[Extract from the speech of Don Touhig MP in the Commons 6/7/2006](#)

[Letter from Don Touhig MP to a PJMer 7/8/2006](#)

[Article from "The Sunday Star", Malaysia, 20/8/2006](#)

[Copy of the Rebuttal dated 21<sup>st</sup> June 2006](#)

## ONE EXAMPLE OF THE COMMONWEALTH ANOMALY



### **Shoulder flash worn by a soldier from the 28<sup>th</sup> Commonwealth Infantry Brigade while serving in Malaysia**

*The Commonwealth Brigade* consisted of British (including Gurkhas), Australian and New Zealand troops and was specifically at the disposal of the Malaysian Government for what is now acknowledged to be PJM service to protect newly independent Malaysia from terror and external aggression. All contingents wore this same shoulder flash.

The majority of those who served solely in this Commonwealth Brigade do not have a British medal but are eligible for the Pingat Jasa Malaysia. For the British, the PJM is their only acknowledgement of their service.

*Only the British* served in all parts of Malaysia and at all times throughout the Emergency and Confrontation.

*Only the British* contingent have been forbidden to wear the Pingat Jasa Malaysia.

*Only the British* will have to keep their PJM in their pocket when on commemorative and remembrance parades. They must stand beside their Australian and New Zealand Commonwealth Brigade ex-comrades-in-arms who rightly have been given permission by Her Majesty the Queen to wear their PJM medal with honour.

**For more information on the Fight for the Right to wear the PJM contact:**

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