



BRIEFING PAPER

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Awards for Valour (Protection) Bill: Committee Stage Report

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Summary

In the UK it is no longer an offence for an individual to wear medals or decorations that they were never awarded. This change in the law was a result of the enactment of the *Armed Forces Act 2006*, which repealed Section 197 of the *Army Act 1955* and Section 197 of the *Air Force Act 1955*, in which the offence was originally specified.

On 29 June 2016, a Private Members' Bill, the [Awards for Valour \(Protection\) Bill](#), was presented to make it an offence, once again, for the wearing or public display – by a person not entitled to do so – of medals or insignia awarded for valour, with the intent to deceive.

This would also align the UK with the many other countries that have similar legislation in force.

In advance of the Bill's Second Reading debate, the Defence Committee held an inquiry to examine the problem that the Bill seeks to address, and received evidence from a number of individuals and organisations. In its report, [Exposing Walter Mitty: The Awards for Valour \(Protection\) Bill](#), the Committee outlined its support for the Bill and agreed that offences should be created to criminalise the deceitful wearing of decorations and medals by 'military imposters'.

The Second Reading debate in the House of Commons took place on 25 November 2016 and received support from both the Government and the Opposition. This Government support came despite opposition to a similar e-petition earlier in 2016.

The Bill had a Public Bill Committee session on Wednesday 1 February 2017 where the Bill and subsequent amendments were scrutinised line-by-line. The Committee adopted various amendments tabled by the Bill's sponsor, Gareth Johnson, which sought to narrow the scope of the bill and place greater emphasis upon "the intent to deceive". Those awards which would fall under the remit of this bill have now been placed in a new Schedule, which can be amended by the Secretary of State through secondary legislation.

The Bill is due to have its Report Stage and Third Reading on 24 February 2017.

1. Background

Although most other countries have legislation in force to protect against the unauthorised and deceitful wearing of medals¹ (the most cited being the *Stolen Valor Act 2013* in the United States), it is no longer an offence in the UK for an individual to wear medals or decorations that they were never awarded.

1.1 *Armed Forces Act 2006*

This change in the law was a result of the enactment of the *Armed Forces Act 2006*, which repealed the *Army Act 1955* and the *Air Force Act 1955* in which the offence was originally specified.

Section 197 of the [Army Act 1955](#) stated:

197. Unauthorised use of and dealing in decorations² etc.

- (1) Any person who, in the United Kingdom or in any colony,—
- (a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied or authorised by the [Defence Council]³, or
 - (b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive, or
 - (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this subsection,

shall be guilty of an offence against this section:

Provided that nothing in this subsection shall prohibit the use or wearing of ordinary regimental badges or of brooches or ornaments representing them.

(2) Any person who purchases or takes in pawn any naval, military or air-force decoration awarded to any member of Her Majesty's military forces, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.

(3) Any person guilty of an offence against this section shall be liable on summary conviction to a fine not exceeding [level 3 on the standard scale] or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

¹ For more details on related legislation in force in other countries, see Commons Briefing Paper [‘Stolen Valour: An international comparison](#), 31 October 2016

² Under Section 225 of the *Armed Forces Act*, a “decoration” includes medals, medal ribbons, clasps and good-conduct badges.

³ The words ‘Defence Council’ replaced ‘Army Council’ when the latter was abolished following the formation of the modern Ministry of Defence in 1964. Similarly, the ‘Air Council’ was replaced in the *Air Force Act*.

An Armed Forces Bill comes before Parliament every five years. Historically it provided for the Service Discipline Acts (the *Army Act 1955*, the *Air Force Act 1955* and the *Naval Discipline Act 1957*) to continue in force for a maximum of five years, subject to an annual Order in Council. It also provided an opportunity to make amendments to the system of military law that exists in the UK.

The *Armed Forces Act 2006* was significant in that it brought together and harmonised military law across all three of the Service Discipline Acts. Several elements of those previous statutes were not included in the 2006 Act, and were effectively repealed. Section 197 of the *Army Act 1955* and the *Air Force Act 1955* was one such provision. Since the 2006 Act came into force, therefore, there has been no specific offence in the UK regarding the unauthorised wearing of military medals and decorations.

1.2 Other relevant legislation

The unlawful wearing of military uniform is covered by the [Uniforms Act 1894](#). It does not, however, apply when an individual is just wearing medals.

The [Fraud Act 2006](#) makes it an offence for an individual to wear uniforms or medals in order to make a financial or other gain. This would not apply, however, to instances of individuals simply trying to curry favour and respect in their community, with no explicit financial gain. It is the issue of 'stolen valour' that this Bill is seeking to address.

1.3 2015 petition

An e-petition was created in late 2015 to '[Make it illegal to impersonate soldiers/veterans – referred to as stolen valour](#)'. It explained:

It is getting common these days for civilians and other people to impersonate soldiers and marines and/or wear medals and awards they are not entitled to wear.

This causes great distress to many veterans and families.

The Stolen Valor Act 2005⁴ has to a great degree mitigated this in the USA.

The e-petition attracted 11,633 signatures and was closed on 3 May 2016, following this response from the Ministry of Defence:

The Government does not believe that the UK requires an equivalent of the USA's Stolen Valor Act.

The Stolen Valor Act 2013 makes it a federal crime to fraudulently claim to be a recipient of certain military decorations or medals in order to obtain money, property, or other tangible benefit.

Under UK law the making, or attempting to make a financial gain by fraudulently wearing uniforms or medals, or by pretending to be or have been in the Armed Forces is already a criminal offence of fraud under the Fraud Act 2006, as is the pretence of being awarded an official medal. The offence carries a maximum penalty

⁴ Following a Supreme Court ruling, the *Stolen Valor Act 2005* was struck down in 2012. A revised version, the *Stolen Valor Act 2013*, was enacted the following year.

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of 10 years' imprisonment. It is also an offence under that Act (carrying up to five years' imprisonment) for a person to possess or have under his control any article for use in the course of, or in connection with any fraud.

It is also an offence against The Uniforms Act 1894 for any person not serving in the Armed Forces to wear the uniform of any of the Armed Forces under such circumstances as to be likely to bring contempt upon that uniform.

However, it is not automatically against civil law to wear a veterans badge or decorations or medals which have not been earned and there are no plans to make it an offence. There are many instances where relatives openly wear the medals earned by deceased relatives as a mark of respect, albeit on the right breast and we would not wish to discourage this practice.

2. The Bill (as originally introduced)

The intention of the [*Awards for Valour \(Protection\) Bill*](#) (Bill 10, 2016-17) is to make it a criminal offence for a person to wear, or display in public, medals or insignia that were awarded for valour, when they are not entitled to do so and when such action is done with the specific intent to deceive.

It is a very short bill consisting of only three clauses.

Clause 1 creates the offence of “wearing medals or insignia without entitlement”. Specifically that act must be done with the intent to deceive and covers both the wearing of medals or insignia (as defined under subsections 2 and 4), and representing oneself as being entitled to wear such awards. The punishment, if found guilty of such an offence, is a period of imprisonment not exceeding three months, **or** a fine (subsection 6).

These elements of clause 1 are very similar to the provisions originally set out in the *Army Act 1955*, which also made reference to the intent to deceive and false representation. However, the punishment under the original statute could include a fine **and/or** a period of imprisonment not exceeding three months.

Unlike the *Army Act 1955* this bill also sets out specific exemptions. Under subsection 5, a person does not commit an offence if an item is worn, or a person represents themselves as being entitled to do so, as part of a “reconstruction or representation of historical events”; as part of a filmed, theatrical or live entertainment production; or when worn in honour of a family member who was “personally entitled” to wear such an award.

Clause 2 requires that any regulations made by the Secretary of State under this legislation must be subject to the affirmative resolution procedure, i.e. subject to the approval of both Houses.

Clause 3 extends this legislation to the whole of the UK.

3. Defence Committee report

On 22 November 2016 the Defence Select Committee published its report "[Exposing Walter Mitty: The Awards for Valour \(Protection\) Bill](#)⁵".

Ahead of the Bill's Second Reading, the Defence Committee received oral and written evidence in order to give the opportunity for the Committee to examine the thematic and policy issues surrounding this Private Members Bill: the extent of the problem that the Bill seeks to address; whether acts of deception in relation to military decorations are worthy of criminalisation; and the nature and scope of criminal offences that might be created by the Bill.

In its evidence to the inquiry, the Ministry of Defence explained the reasons why offences relating to the protection of decorations had not originally been carried over into the *Armed Forces Act 2006*:

Section 197(1) created three separate offences. They included two offences of wearing any decoration, badge, wound stripe or emblem authorised for wear by the Sovereign, or anything closely resembling them "without authority." It was not clear who could give the necessary permission. The need for authority in all cases suggested that none of these could be worn even in a theatrical performance, film, re-enactment or fancy dress without permission. Nor was it clear whether it applied only to current badges, stripes and emblems or also precluded (without authority) the wearing of historic ones. Requiring specific authority for such events was considered to be excessive, and indeed was no longer insisted on. The third offence was of falsely representing entitlement to wear such badges and emblems. Section 197 would also have required considerable amendment.

These provisions in the 1955 Acts were not included in the Armed Forces Act 2006, not only because of the inconvenience of the need for "authority" to wear them, but also because it was considered that the important element of the offences was to prevent people from making financial or other gain dishonestly by wearing uniform, medals or by representing themselves to in the Armed Forces or entitled to a medal. It was decided that this was more clearly and comprehensively dealt with by the general offence of fraud under the Fraud Act 2006. That offence also carries a more appropriate sentence of up to 10 years' imprisonment on trial before the Crown Court. It was also considered that an offence based on an intent to deceive which did not involve fraud (for example, where there was no attempt to make a financial or property gain, or cause someone loss) was likely in practice to cause difficult questions of proof.⁶

The Defence Committee disagreed with this view and was of the opinion that new, more workable offences should have been included in the 2006 Act.

The Committee also questioned the prevention of a financial or other tangible gain being the most important element of the 2006 Act as this was not specified in the offences and disagreed that offences involving

⁵ Defence Committee, [Exposing Walter Mitty: The Awards for Valour \(Protection\) Bill](#), Fourth Report of Session 2016-17, HC 658, 22 November 2016

⁶ Ministry of Defence ([AVP0003](#))

an intention to deceive – but not relating to fraud – were difficult to prove. Indeed, the Committee concluded that examples of such offences already exist: the offence of police impersonation for example.

Although difficult to get an accurate picture, the Committee agreed that there was strong anecdotal evidence that military imposters are a continuing problem and that the unauthorised and deceitful use of military decorations and medals should be an offence with clearly defined penalties, as is currently the case in many other countries. In addition, the Committee recommended that the MoD sets out the practicalities of creating an online database of medal recipients that is publicly searchable.

While safeguarding the integrity of military awards, the Defence Committee maintained family members of deceased relations should be able to wear their relative's medals, with a clear definition included to prevent uncertainty or abuse.

The Committee subsequently supported the Bill and the principles that lie behind it:

53. We conclude that the protections sought in the Bill are necessary to safeguard the integrity of the military honours system, to reflect the justifiably strong public condemnation of the deceitful use of military honours, and to ensure that legitimate recipients of these distinguished awards should not have to endure the intrusion of imposters.
54. We support this Bill and are confident that the refinements we suggest in our Report can be addressed either at Second Reading or during the Committee Stage of the Bill. We look to the Government to endorse the Bill and to facilitate its passage through Parliament.

3.1 Government response

On 2 February 2017 the Government published its response⁷ to the Defence Committee's report. It welcomed the report and expressed its support of the Private Member's Bill.

The Government agreed that there is anecdotal evidence of military imposters being a continuing problem within society and that this can cause undue distress to genuine medal recipients and their families. It acknowledged that the unauthorised and deceitful use of military decorations and medals is a harm worthy of criminal prohibition for the most serious of cases.

When addressing the practicalities of creating an online, publicly-searchable database to record those who are rightful recipients of medals, the Government believed the London Gazette already provides this function. To create a new, searchable database of awards would require thorough consideration, with the need to deliberate over:

⁷ Defence Committee, [*Exposing Walter Mitty: The Awards for Valour \(Protection\) Bill: Government Response to the Committee's Fourth Report*](#), Sixth Special Report of Session 2016-17, HC 1000, 2 February 2017

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security; data protection; scale of the project; and who would be responsible for maintaining such a database.

The Government recognised the Committee's interest in protecting family members wearing the medals of their deceased relatives and to safeguard the integrity of the military honours system.

4. Main points raised in Second Reading

[Second Reading](#) of the *Awards for Valour (Protection) Bill* took place on 25 November 2016.

In contrast to its earlier position (see above), by the time of the Second Reading debate the Government had chosen to support the Bill. In the debate the Parliamentary Under-Secretary of State for Defence was asked to explain why the Government was now supporting this Bill, yet had not supported the measures proposed in the e-petition earlier that year:

Philip Davies:

The Minister has explained, as she said she would, why the Government are supporting the Bill, but she has not covered why the Government did not support exactly the same measures proposed in the e-petition in May this year.

Harriett Baldwin (Parliamentary Under-Secretary of State for Defence):

The Secretary of State has been thoroughly convinced by the excellent case put forward by my hon. Friend the Member for Dartford, by the power of his argument in the Chamber and the way he has worked so constructively to address our previous concerns in his proposed legislation.

My hon. Friend the Member for Shipley mentioned the questions about the extent of the problem in this country. I am grateful to the Defence Committee for producing its extremely thorough report, which acknowledges that the precise level of the problem is difficult to determine. There is clearly a greater awareness of it as an issue, perhaps because of the greater visibility afforded by social media and the appearance of groups dedicated to exposing these “Walter Mittys”. It is for that reason, and those that I have previously outlined, that the Government are now happy to offer support to the Bill.

The Committee’s report was ably summarised by my right hon. Friend the Member for New Forest East, who chairs the Committee, and it raised issues for the Government to consider beyond those immediately addressed by the Bill—in particular, the question of establishing a searchable database of holders of awards. Details of individual bravery or gallantry awards are published in the London Gazette—indeed, that is the origin of the term “gazetted” in relation to medals. However, the creation of a searchable database of holders would raise concerns about personal data and individual security. There is also the matter of who would be responsible for it and who would maintain it. It would be a long-term task for someone. When it comes to the various types and levels of campaign awards, a different issue arises—one of scale. For example, the Operational Service Medal for Afghanistan alone was issued to 150,000 recipients.

4.1 Main points of the debate

In the debate Gareth Johnson MP, its sponsor, outlined the main points of the Bill.

These were:

- To protect genuine heroes and prevent so-called Walter Mittys; specifically, to deal with individuals who intend to deceive others.
- To maintain the custom of allowing family members to wear medals that were awarded to their loved ones.
- To protect against criminalisation of individuals who have mental health problems and do not have the mental capacity to form the necessary intent to commit the offence.

The Second Reading debate saw these points – and others – discussed at length, suggesting further topics for scrutiny in Committee.

Such points included:

- Concern about the increased accessibility of second-hand medals and insignia.
- Disagreement over the scale of the problem and whether examples of Walter Mittys parading at Remembrance Day parades and elsewhere are increasing.
- Questions regarding current fraud legislation and whether this is sufficient.
- Allowing family members, out of respect and honour to the recipients, to wear medals that their loved ones earned.
- The need for a clear definition of “family member” to ensure that there is no room for manoeuvre or any loopholes in the system for people to abuse.
- Several Members discussed examples within their own constituencies of individuals who had fraudulently worn medals.
- Discussion of penalties and the need for a suitable deterrent; arguments in favour of imprisonment or community service, for example.
- Outlining similar legislation and penalties that exist in other countries, with much debate regarding the *US Stolen Valor Acts*.

The Bill was committed to a Public Bill Committee and with the support of the Government is now considered likely to progress.

5. Committee Stage proceedings

5.1 Amendments tabled for Committee Stage

Prior to the Public Bill Committee Stage several [amendments](#) to the bill were tabled.

Simplifying the Bill

The sponsor of the original bill, Gareth Johnson tabled several amendments which made significant changes to the structure of the bill, although not to its overall intent.

Amendments 2 and 3 sought to remove clauses 1 and 2 of the original bill. In their place would be **New Clause 1** which places greater emphasis upon the intent to deceive. It simplifies clause 1 by removing references to those individuals who may wear such medals for the purpose of live entertainment or family members, and focuses solely on the wearing of awards, or something which has the appearance of an award, with the intent to deceive. Those awards which would fall under the remit of this bill have been placed in a **new Schedule**, divided into gallantry and campaign awards.

This new clause also provides clarity on the regulatory framework for amending that Schedule.

Amendment 4 would change clause 3 of the original bill so that the statute would come into force two months after the legislation is passed, instead of the day after Royal Assent.

National Defence Medal

Amendment 1, tabled by Kirsten Oswald, would place a requirement upon the Secretary of State, prior to designating any other awards under this legislation, to report to Parliament on whether a National Defence Medal should be instituted and awarded to all Service personnel. If that report concludes that such a medal should be instituted, this amendment also then questions whether the legislation, as set out in this bill, is warranted.

5.2 Main points raised in Committee Stage

The [Public Bill Committee debate](#) took place on Wednesday 1 February 2017.

Opening proceedings, Gareth Johnson set out the purpose behind his amendments, as outlined above:

The Bill will therefore be narrower in scope, but will more effectively carry out its main intention, which is to end the practice of people wearing medals with intent to deceive [...]

My intention has always been to target those people who undermine our serving personnel and veterans by wearing awards that they have not been given to try to deceive people. That action undermines the confidence that people have when seeing

-serving personnel and veterans proudly wearing their medals. The new clause enables the Bill to target those who falsely wear medals.

The new clause does not contain any specific offences and exemptions for various groups. It no longer includes the concept of a person being “entitled” to wear an award. Instead, it places the focus on whether the person wearing the award intends to deceive by doing so. In short, if there is no intent to deceive, no offence can be committed. An offence can be committed only when there is intent to deceive; it cannot be committed accidentally or unintentionally. The wording is critical, as it means that the wonderful custom of family members sporting medals in honour of loved ones is unaffected by the Bill.

The subsequent Committee Stage debate raised a number of main points:

- There was discussion on whether the offence could be committed unintentionally.
- Protecting family members and friends who wish to wear the medals of deceased veterans, but do not intend to deceive others.
- Making it an offence for an individual to wear replicas – or copies of medals – if they intend to deceive by doing so. Commemorative medals do not come under the umbrella of the Bill.
- Issues around NATO and UN medals not being included in the Schedule. The Armed Forces Minister, Mike Penning, indicated that the Government may return to the issue of UN medals, under powers conferred on the Secretary of State to amend the Schedule.⁸
- Discussion on whether medals awarded by foreign governments – and which the Queen had sanctioned – would be included in the provisions.
- With the Bill covering only medals for valour, there was much discussion on individuals using long service or other medals to continue to deceive. Jubilee Medals, are commonly worn and are not included in the Schedule.
- Discussion on the scale of the problem and examples of military imposters and their behaviours; notably the serious cases where individuals are trying to get money – often deceitfully – for non-existent charities.
- Whether current fraud legislation is sufficient to address the offence described in the Bill.
- Although not falling within the scope of this Bill, there was discussion on the issue of a National Defence Medal.
- How the legislation would apply in all constituent countries of the UK.

⁸ HC Deb 1 February 2017, c20

Following the debate, all of the amendments tabled by Mr Johnson were subsequently adopted. The amendment relating to the National Defence Medal was not called.

The [Bill, as amended in Committee](#) (Bill 134, 2016-17), is now due to have its Report Stage and Third Reading on 24 February 2017.

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