ANNO TRICESIMO OCTAVO

# GEORGII III. REGIS.

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## C A P. XLIV.

An Act to enable His Majesty to call out a Part of the Militia in that Part of *Great Britain*, called *Scotland*, and to amend an Act, made in the last Session of Parliament, intituled, *An Act to raise and embody a Militia Force in that Part of the Kingdom of* Great Britain *called* Scotland. [10th *May* 1798.]

WHEREAS by an Act, passed in the Thirty-seventh Year of His Majesty's Reign, intituled, *An Act to raise and embody a Militia Force in that Part of the Kingdom of* Great Britain *called* Scotland, the Number of Men to be so raised is limited to Six thousand Men; and His Majesty is thereby empowered (by Order in Council) to embody and call out the said Six thousand Men: And whereas by an Act, passed in the Thirty-eighth Year of the Reign of His present Majesty, intituled, *An Act to give further Time for executing, and for enlarging the Powers of an Act, made in the last Session of Parliament, intituled,* ' *An Act to raise and embody a Militia Force in that* ' *Part of the Kingdom of* Great Britain *called* Scotland,' His Majesty, notwithstanding no Accounts or States of Persons liable to serve as Militia Men had been transmitted for certain of the Counties, Stewartries, Cities, and Places, in *Scotland*, is empowered, from the Lists, States, and Accounts, which had been transmitted to His Majesty's Privy Council, previously to apportion and divide over the several Counties, Stew-

Preamble.

37 *Geo.* III, Cap. 103.

38 *Geo.* III, Cap. 12, recited.

artries, Cities, and Places, from which ſuch Liſts, States, and Accounts, had been tranſmitted, the Number of Militia Men to ſerve for each ſuch County Stewartry, City, or Place: And whereas His Majeſty has been pleaſed, by His Order in Council, to apportion and divide a certain Number of Men amongſt the ſeveral Counties, Stewartries, Cities, and Places, in *Scotland*, which have made ſuch Returns as aforeſaid: And whereas Doubts have ariſen whether, by the ſaid ſeveral Acts, His Majeſty is empowered to embody and call out Part of the Men ſo to be ballotted, without calling out the Whole; and in caſe his Majeſty ſhould think fit ſo to do, in what Manner the Men ſo to be called out can be ſelected: May it therefore pleaſe Your Majeſty that it may be enacted; and be it enacted by the King's moſt Excellent Majeſty, by and with the Advice and Conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the Authority of the ſame, That it ſhall be lawful for His Majeſty, by Order in Council, from Time to Time, to order and direct any Part of the Men by the ſaid Acts directed to be apportioned and divided amongſt the ſeveral Counties, Stewartries, Cities, and Places aforeſaid, to be embodied and called out, as His Majeſty ſhall think fit, and for that Purpoſe either to direct the Whole of the Men ballotted for any particular County, Stewartry, City, or Place, with their Officers, or any Proportion of ſuch Men, with any particular Number or Deſcription of their Officers, or any Proportion of Men in each County, Stewartry, City, or Place, with any Proportion or Deſcription of Officers ſerving for ſuch County, Stewartry, City, or Place, as His Majeſty ſhall judge proper to be ſo embodied and called out, and to put ſuch Men as His Majeſty ſhall think proper from Time to Time to cauſe to be embodied and called out as aforeſaid, under the Command of ſuch General Officers as His Majeſty ſhall be pleaſed to appoint, and to direct ſuch Forces to be led by their reſpective Officers into ſuch Parts of the Kingdom, and for ſuch Purpoſes as by the firſt-mentioned Act His Majeſty is authorized to direct, with reſpect to the Whole of the Men thereby directed to be ballotted, and generally to do, and to order and direct to be done, all Matters and Things touching ſuch Parts of the ſaid Men as His Majeſty ſhall, from Time to Time, think proper to embody and call out in purſuance of this Act, in like Manner as His Majeſty is, by the ſaid firſt-mentioned Act, empowered to do with reſpect to the Whole of the ſaid Six thouſand Men; any Thing in the ſaid firſt-recited Act contained to the contrary notwithſtanding.

His Majeſty, by Order in Council, may order any Part of the Men directed by the recited Acts to be apportioned among the Counties, *etc.* to be embodied, and put under the Command of General Officers.

II. And be it enacted, That whenever His Majeſty ſhall think proper to direct any Proportion of Men ballotted to ſerve for any County, Stewartry, City, or Place, to be embodied and called out as aforeſaid, the Lieutenant for ſuch County, Stewartry, City, or Place, together with Two or more of the Deputy Lieutenants, or on the Death or Removal, or in the Abſence of the Lieutenant, any Three or more of the Deputy Lieutenants ſhall appoint what Numbers of ſuch Men ſo directed to be embodied and called out, ſhall be taken from the Men ballotted to ſerve for each of the ſeveral Diſtricts, Pariſhes, or other Diviſions of ſuch County, Stewartry, City, or Place, and ſhall appoint Subdiviſion Meetings to be holden for the Purpoſe of ballotting for ſuch Numbers of Men to be embodied and called out for each of ſuch Diſtricts, Pariſhes,

When His Majeſty ſhall order any Proportion of Men to be embodied, the County Lieutenant, *&c.* to appoint what Numbers ſhall be taken from the Men ballotted for each Diſtrict, and appoint Subdiviſion Meetings for ballotting for them, *etc.*

or other Diviſions, at which Subdiviſion Meetings reſpectively the Deputy Lieutenants, Juſtices of the Peace, and Schoolmaſter, attending, ſhall proceed to ballot for the Number of Men appointed to be embodied and called out for each Diſtrict, Pariſh, or other Diviſion as aforeſaid, by the ſame Methods, Rules, and Regulations, and in like Manner as the original Ballot for Men to ſerve for ſuch Diſtricts, Pariſhes, or other Diviſions reſpectively, is directed to be made by the ſaid ſeveral Acts, or either of them; and the Names of all the Men ſo ballotted for the Purpoſe of being embodied and called out as aforeſaid, ſhall be marked on the Liſt of the Men ballotted to ſerve for ſuch Diſtricts, Pariſhes, or other Diviſions reſpectively, and when the Ballot ſhall be concluded, the Liſt of the Men ſo ballotted for the Purpoſe of being embodied and called out, ſhall be publickly read, and the Names of all the Men ſo choſen by Ballot for the Purpoſe of being embodied and called out as aforeſaid, ſhall be returned to the Clerk of the General Meeting of the County, Stewartry, City, or Place, for which ſuch Men ſhall be ballotted as aforeſaid, and the Perſons ſo choſen by Ballot to be embodied and called out as aforeſaid, ſhall be embodied and called out accordingly; and the Lieutenant or Deputy Lieutenants for ſuch County, Stewartry, City, or Place, ſhall, at a General Meeting to be appointed for that Purpoſe, direct Notice to be given to the Men who ſhall have been ballotted for the Purpoſe of being embodied and called out in purſuance of this Act, of the Time and Place of their aſſembling in order to their being embodied, and the Men who ſhall be ſo declared to have been ballotted in purſuance of this Act, ſhall immediately proceed and repair to, and ſhall duly attend at, the Time and Place ſo to be appointed and declared, in order to their being embodied accordingly; and the Pay of every ſuch Man who ſhall be ſo embodied in purſuance of this Act, ſhall commence on the Day on which ſuch Men reſpectively ſhall be ſo choſen by Ballot to be embodied and called out into actual Service.

Names of Men ſo ballotted, to be marked on Liſts, *etc.* and to be embodied.

Notice to be given the Men ballotted of the Time and Place of aſſembling for embodying them.

Pay to commence when choſen by Ballot.

III. And be it further enacted, That if at any Meeting as aforeſaid, on or before the Twenty-ſecond Day of *May* One thouſand ſeven hundred and ninety-eight, any Perſons or Perſon ſhall offer themſelves or himſelf as Volunteers or a Volunteer, to be embodied and called out, and ſerve as Militia Men or as a Militia Man, for any Diſtrict, Pariſh, or other Diviſion, inſtead of any Men or Man to be ballotted for in purſuance of the ſaid Act, and ſhall be approved and accepted as able and fit for Service as herein-after mentioned, it ſhall be lawful for the Deputy Lieutenants and Juſtices preſent at ſuch Meeting, to accept ſuch Offer, and to enter the Names or Name of ſuch Volunteers or Volunteer upon a Liſt to be made for that Purpoſe; and if the Number of Men who ſhall ſo offer as Volunteers, ſhall be equal to the Number of Men directed to be embodied or called out for ſuch Diſtrict, Pariſh, or Diviſion, the ſaid Deputy Lieutenants and Juſtices ſhall not proceed to ballot for any Men to be embodied and called out for ſuch Diſtrict, Pariſh, or Diviſion, but ſhall return ſuch Liſt of Volunteers inſtead of a Liſt of Men ballotted in purſuance of the Directions for that Purpoſe herein-before contained; and in caſe the Number of Perſons who ſhall ſo offer to be embodied and called out, and to ſerve as Volunteers, ſhall not be equal to the Whole Number of Men directed to be embodied and called out for ſuch Diſtrict, Pariſh, or Diviſion, the ſaid Lieutenants and Juſtices ſhall ballot according to the Directions herein-before contained, for ſo many Men

Before or on *May* 22, 1798, Volunteers may be accepted as Subſtitutes for Men ballotted, *etc.*

If ſufficient Volunteers ſhall not offer for any Diſtrict, ſo many Men as ſhall be neceſſary to complete the Number to be ballotted for.

Men only as ſhall be neceſſary, together with ſuch Volunteers, to complete the Number directed to be embodied and called out for ſuch Diſtrict, Pariſh, or Diviſion, and ſhall return ſuch Liſt of Volunteers, and a Liſt of ſuch ballotted Men, making together the complete Number of Men required, in the ſame Manner as Liſts of ballotted Men are hereinbefore directed to be returned as aforeſaid; and if any ſuch Volunteer as aforeſaid ſhall not have been before ballotted to ſerve in the Militia for ſuch Diſtrict, Pariſh, or Diviſion, ſuch Volunteer ſhall be ſworn and enrolled to ſerve in the Militia for ſuch Diſtrict, Pariſh, or Diviſion, in the ſame Manner as if ſuch Volunteer had been offered and approved as a Subſtitute in purſuance of the ſaid Act made in the Thirty-ſeventh Year of His Majeſty's Reign: Provided always, that every ſuch Volunteer who ſhall be accepted and returned as aforeſaid, ſhall be able and fit for Service, and approved by Two or more of the ſaid Deputy Lieutenants, as ſuch, before his Offer to ſerve as a Volunteer as aforeſaid ſhall be accepted; and in caſe any ſuch Volunteer as aforeſaid, who ſhall be ſo approved and accepted as aforeſaid, ſhall offer to ſerve as a Subſtitute for any Perſon before ballotted to ſerve as aforeſaid, not being himſelf a ballotted Militia Man, the Perſon for whom he ſhall ſo offer to ſerve as a Subſtitute, ſhall, upon his being accepted, ſworn, and enrolled as aforeſaid, be diſcharged from further Service, in the ſame Manner as if ſuch Perſon had provided a Subſtitute in purſuance of the Directions of the ſaid Act of the Thirty-ſeventh Year of His Majeſty's Reign; and if ſuch Volunteer ſhall be a ballotted Militia Man, but ſhall offer to ſerve inſtead of another Man choſen by Ballot to be embodied and called out for the ſame Diſtrict, Pariſh, or Diviſion, the Service of ſuch Volunteer ſhall be accepted inſtead of the Perſon for whom he ſhall offer to ſerve as aforeſaid.

Volunteers not having been ballotted to ſerve, to be ſworn and enrolled.

Volunteers to be approved by Two Deputy Lieutenants, *etc.*

IV. And be it further enacted, That if any ſuch Volunteer as aforeſaid, or any Perſon ſo choſen by Ballot to be called out and embodied as aforeſaid, ſhall not appear at the Time and Place which ſhall be appointed for his Appearance, to be embodied as aforeſaid, and march in purſuance of ſuch Orders as ſhall be given for that Purpoſe, every ſuch Perſon, unleſs labouring under ſome Infirmity incapacitating him to ſerve as a Militia Man, ſhall be liable to be apprehended and puniſhed as a Deſerter, according to the Proviſions of any Act then in Force for puniſhing Mutiny and Deſertion; and if any ſuch Volunteer ſo neglecting to appear and march, ſhall not be taken within Two Calendar Months after he ought to have appeared and marched as aforeſaid, the Perſon for whom he ſhall have been accepted as a Volunteer or Subſtitute, ſhall, within One Calendar Month after Notice for that Purpoſe, perſonally appear and ſerve as a Militia Man, and be duly ſworn and enrolled accordingly to join the Regiment or Body of Militia to which he ſhall belong, or ſhall find another able and fit Perſon to ſerve as a Subſtitute, who ſhall be approved and accepted by Two or more of the ſaid Deputy Lieutenants, and ſworn and enrolled accordingly; and if any ſuch Volunteer who ſhall ſo neglect to appear and march as aforeſaid, ſhall not have offered and been accepted to ſerve inſtead of any particular Perſon before choſen by Ballot to be embodied and called out as aforeſaid, or if any Perſon ſo choſen by Ballot, ſhall neglect to appear and march as aforeſaid, and ſhall not be taken as a Deſerter within Two Calendar Months after he ought to have appeared and marched as aforeſaid, Notice thereof ſhall be given to the Diſtrict, Pariſh, or Diviſion, for which ſuch

Volunteers, or ballotted Men not appearing to be embodied, to be deemed Deſerters;

and if ſuch Volunteers do not appear within Two Months, the Perſons for whom accepted ſhall ſerve, or find other Subſtitutes.

If a Volunteer ſhall not be a Subſtitute for any particular Perſon, or if any Man choſen by Ballot, and not appearing, ſhall not be taken within Two Months,

ſuch Perſon ought to have ſerved as aforeſaid; and unleſs ſuch Diſtrict, Pariſh, or Diviſion, ſhall, within One Calendar Month after ſuch Notice, procure a fit and able Perſon to ſerve inſtead of ſuch Deſerter, who ſhall be accepted and approved by Two or more of the ſaid Deputy Lieutenants, and ſworn and enrolled, the Deputy Lieutenants and Juſtices acting for the County, Stewartry, City, or Place, ſhall proceed to ballot for another Perſon to ſerve for the Diſtrict, Pariſh, or Diviſion, for which ſuch Deſerter ought to have ſerved as aforeſaid, in the ſame Manner as herein-before directed for the original Ballot for Men to be embodied and called out as aforeſaid; and in caſe ſuch Deſerter ſhall be afterwards taken, ſuch Deſerter ſhall nevertheleſs be compelled to ſerve in the ſame Manner as he would have ſerved if he had appeared at the Time and Place appointed for that Purpoſe.

unleſs the Diſtrict for which he ought to ſerve ſhall, within a Month after Notice, procure a fit Perſon in his Stead, a freſh Ballot to be had.

Such Deſerter, if taken, to be compelled to ſerve.

V. And be it further enacted, That in caſe it ſhall appear to any Two or more Deputy Lieutenants aſſembled at any Subdiviſion Meeting, that any Militia Man ſo embodied as aforeſaid is dead, or that any ſuch Militia Man is unfit for Service, and ſuch Militia Man ſhall therefore be diſcharged, ſuch Deputy Lieutenants ſhall forthwith cauſe another Perſon to be choſen by Ballot to be embodied and called out in the Stead of the Militia Man ſo dead or diſcharged, and from the Diſtrict, Pariſh, or Diviſion, which furniſhed the Man or Men ſo deceaſed or diſcharged; and ſuch Perſon ſhall ſerve accordingly by himſelf or his ſufficient Subſtitute, in the ſame Manner as if he had been originally choſen by Ballot to be embodied and called out in purſuance of this Act.

Deputy Lieutenants to cauſe other Perſons to be choſen by Ballot, in the Stead of Men dead or diſcharged.

VI. And be it further enacted, That it ſhall be lawful for His Majeſty to cauſe the Number of Men to be drawn out and embodied as aforeſaid, from Time to Time, to be formed into ſuch Regiments or Battalions, to conſiſt of ſuch Companies, and of ſuch Number of Men in each Company, and to fix the Number and Rank of Officers in ſuch Regiment and Battalion, and alſo ſuch Number of Serjeants in each Company, as His Majeſty ſhall think expedient; any Thing in the ſaid Act contained to the contrary notwithſtanding.

His Majeſty may order the Men embodied to be formed, and Officered, as he ſhall think proper.

VII. And be it further enacted, That the Proceedings which may have been had and done at any General Meeting of the Lieutenants and Deputy Lieutenants, or any Three or more of them, within Fourteen Days after the Receipt of His Majeſty's Order in Council, ſhall be valid and effectual, and alſo all Proceedings which ſhall be held and done at any General Meeting of the Lieutenants and Deputy Lieutenants, or any Three or more of them, which may be ſummoned by the Lieutenant, or failing of him, any Three or more Deputy Lieutenants, ſubſequent to the ſaid Fourteen Days, and before the Twenty-ſecond Day of *May*, ſhall be equally valid and effectual as if the ſame had been done, and the ſame Proceedings had, within the ſaid Fourteen Days.

Proceedings of General Meetings within 14 Days after Receipt of His Majeſty's Order in Council, to be valid, &c.

VIII. And be it further enacted, That ſo much of the ſaid firſt-recited Act as authorizes the Captains of Companies to appoint Drummers, Corporals, and Non-commiſſioned Officers, to the ſaid Militia, ſhall be and is hereby repealed, and that the Colonel or Commanding Officer of every Regiment or Battalion of Militia, may and ſhall appoint Two Perſons to be Drummers to each Company, and may and ſhall appoint Corporals,

So much of firſt-recited Act as authorizes the Captains to appoint Drummers, *etc.* repealed, and the Colonel or Command-

ing Officer to appoint them, and alſo Serjeants, &c.

porals in the Proportion of One to Twenty Men, and may diſplace ſuch Drummers and Corporals reſpectively for Miſbehaviour, and appoint others in their Room, from Time to Time, as he ſhall ſee Occaſion, and may and ſhall appoint the Serjeants in the Regiment or Battalion under his Command, and alſo fill up ſuch Vacancies of Serjeants as may happen therein; and it ſhall be lawful for the ſaid Colonel or Commanding Officer as aforeſaid, to diſplace any Perſon ſo appointed a Serjeant, and to diſmiſs, or cauſe ſuch Perſon ſo diſplaced to be reduced to the Rank of a private Militia Man; and the Colonel or Commanding Officer of every Regiment or Battalion of Militia, may appoint a Serjeant Major and a Drum Major; and that all Serjeants, Corporals, and Drummers, having received Pay as ſuch from any Regiment or Battalion, ſhall be deemed to be engaged, and compellable to ſerve in ſuch Regiment or Battalion until they be legally diſcharged.

No Victualler to be a Serjeant, Corporal, or Drummer.

IX. Provided always, That no Perſon who ſhall keep any Houſe of publick Entertainment, or who ſhall ſell any Ale or Wine, or any Brandy or other Spirituous Liquors, by Retail, ſhall be capable of being appointed, or ſerving as a Serjeant, Corporal, or Drummer, in the ſaid Militia.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1798.