ANNO QUADRAGESIMO QUINTO

GEORGII III. REGIS.

CAP. XXXI.

An Act for allowing a certain Proportion of the Militia in *Great Britain* voluntarily to enlist into His Majesty's Regular Forces and Royal Marines.

[10th *April* 1805.]

WHEREAS it is highly important that the most effectual Measures should be taken for augmenting His Majesty's Regular Forces and Royal Marines, for the vigorous Prosecution of the present War: And it is therefore expedient immediately to allow so many of the Militia now serving in *Great Britain*, as may exceed the original Quotas specified in Two Acts, passed in the Forty-second Year of the Reign of His present Majesty, in relation to the Militia of *England* and *Scotland* respectively, to be reduced; and to enable His Majesty to accept the Services of such of them as may voluntarily offer to enlist in His Majesty's Regular Forces and Royal Marines, under certain Provisions and Restrictions: 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 any Order or Orders signified by His Majesty's Secretary of State, to name and appoint such and so many Regiments of His Majesty's Regular Forces and Divisions of the Royal Marines, as His Majesty shall think fit, to receive Volunteers from the Militia in

His Majesty may appoint Regiments of his Regular Forces and Divisions of the Marines in which Militia Men may enlist.

in *Great Britain* under this Act, out of any Regiment of Militia named in any such Order; and it shall be lawful for any Number of Serjeants, Corporals, and private Men of any such Regiment of Militia, not exceeding the Proportions herein-after mentioned, to enlist in the Manner and under the Regulations herein mentioned, into any Regiment and Division as aforesaid, which in any such Order of His Majesty shall be named to receive Volunteers from such Regiment of Militia.

The Number of Men to be enlisted shall not exceed the Number then serving above the original Quota of the County, nor more than One Serjeant and One Corporal for every Twenty private Men.

II. And be it further enacted, That the Number of private Men to be enlisted out of the Militia of any County, whether the same shall consist of more than One Battalion or not, or whether the Militia of Two or more Counties shall be included in only One Battalion, shall not, in any Case exceed the Number of private Men then serving in the Militia for such County, after deducting the original Quota of the Militia thereof; and the Number of Serjeants and Corporals to be enlisted out of the Militia of any County, shall not in any Case exceed the Proportion of One Serjeant and One Corporal for every Twenty private Men enlisting; and in case the Militia of any County shall consist of more than One Battalion, His Majesty's Secretary of State shall ascertain the Number of private Men that may be allowed to enlist out of each of such Battalions, by the Proportion which the Number of private Men serving in each Battalion bears to the whole Number of private Men actually serving in the Militia of such County, and shall signify to the Commanding Officers of each of such Battalions, the Number of private Men that may be allowed to enlist out of their respective Battalions.

Where more than One Battalion, the Secretary of State to signify to the Commanding Officers the Number to be enlisted out of each.

Commanding Officer to ascertain the Number willing to enlist, and if it be Four Fifths of the Number allowed, no more shall be enlisted.

III. And be it further enacted, That it shall be lawful for the Commanding Officer of any Regiment of Militia, on the Receipt of any Order or Orders of His Majesty's Secretary of State, specifying the Regiment or Division as aforesaid, into which his Men may enlist, and the Number of Men to be allowed to enlist out of his Regiment, to ascertain the Number of Serjeants, Corporals, and private Men willing to enlist into the Regiment or Division as aforesaid, out of his Regiment; and if the Number of such private Men, who shall upon Inspection be approved as herein-before is mentioned, shall amount to Four Fifths of the Number allowed to enlist, forthwith to deliver them to the Officer appointed to receive such Volunteers; and in such Case no further Number of private Men shall be allowed to enlist out of such Regiment.

Commanding Officer may select not exceeding Half of the Number serving in the Regiment of Militia, and the Men to be enlisted under this Act shall be from the Remainder.

IV. And be it further enacted, That it shall be lawful for the Commanding Officer of any Regiment of Militia, if he shall think fit, by Ballot or otherwise, at his Discretion, to select any Number of private Men, not exceeding in Number One Half of the private Men actually serving in such Regiment at the Time of receiving His Majesty's said Order, or in case such Regiment shall consist of the Militia of Two or more Counties, then not exceeding in Number for each County One Half of the private Men actually serving in such Regiment for each County, to serve as Part of the original Quota of the Militia to which the County shall remain liable, and also to select a like Proportion of Serjeants and Corporals then serving therein; and the Serjeants, Corporals, and private Men so selected by such Commanding Officer, shall not be allowed to enlist into any Regiment or Division as aforesaid, under this Act; and in

every such Case the Serjeants, Corporals, and private Men, to be enlisted under this Act, shall be enlisted only out of the Serjeants, Corporals, and private Men remaining after such Selection as aforesaid.

His Majesty may appoint Officers to approve or reject the Men, but none shall be rejected who are Five Feet Four Inches, and under 35 Years of Age, and not disabled.

V. And be it further enacted, That it shall be lawful for His Majesty to appoint such General or Field Officers, specially authorized by His Majesty, or the Commander in Chief of His Majesty's Forces for that Purpose, to inspect, approve, or reject the Serjeants, Corporals, and private Men, who shall be desirous of enlisting under this Act; and such Officers may approve of or reject such Serjeants, Corporals, or private Men accordingly: Provided always, that nothing in this Act contained shall extend to authorize any such Officers to reject any Serjeants, Corporals, or private Men, desirous of enlisting into any Regiment or Division as aforesaid, who shall be of the Height of Five Feet and Four Inches or upwards, and under the Age of Thirty-five Years, and not disabled by Lameness or other bodily Infirmity.

Commanding Officer of every Regiment out of which the Proportion of Four Fifths shall not enlist, shall read His Majesty's Order, and shall explain to the Men the Terms of Enlistment, and cause the Names of the Volunteers to be written down, and if they exceed the allowed Proportion the Excess shall be reduced by Ballot.

VI. And be it further enacted, That the Commanding Officer of every Regiment of Militia, out of which such Proportion of Four Fifths shall not have enlisted, and been delivered to such Officer as aforesaid, shall, within Seven Days after receiving His Majesty's Order in that Behalf, cause such Regiment, if no Selection shall have been made as aforesaid, and if such Selection shall have been made, then the remaining Part of the Men then serving in such Regiment, to be drawn out, and such Commanding Officer, or some Commissioned Officer by his Direction, shall read to the Regiment or Men, so drawn out, His Majesty's Orders, and shall cause the same to be given out in Orders, and shall, in such Manner as His Majesty shall direct, explain to the Men the Terms upon which any Man serving in the Militia may enlist into any Regiment or Division as aforesaid, under this Act, and shall on the Day next succeeding the Reading of His Majesty's said Order, cause his Regiment, or such Part thereof as aforesaid, to be drawn out in such Manner as the Commanding Officer shall direct, and such Commanding Officer shall cause the Names of the Men who shall then voluntarily declare their Intention of enlisting into any Regiment or Division as aforesaid, to be written down; and if the Number of such Men shall exceed the Proportion allowed to enlist, such Excess shall be reduced by Ballot to the Number authorized to enlist into any Regiment or Division as aforesaid.

But if the Number who shall enlist shall not be the due Proportion a Book shall be opened, and Men may within Ten Days enlist, whose Names shall be entered, and transmitted to the County Lieutenant, and if the full Number shall not then be enlisted, the Proceedings for enlisting them

VII. Provided always, and be it further enacted, That if the Number of private Men in any Regiment of Militia, or in such Part thereof as shall not have been selected as aforesaid, who shall (when so drawn out as aforesaid) voluntarily declare their Intention to enlist into any Regiment or Division as aforesaid, shall not amount unto the Proportion authorized to enlist, then and in such Case a Book shall be opened by the Commanding Officer, and it shall be lawful for any other of such Men, at any Time within Ten Days after such Regiment of Militia, or such Part thereof as aforesaid, shall have been drawn out, to enlist into any Regiment or Division as aforesaid, and the Name of every such Man shall be entered in the said Book, and be transmitted by such Commanding Officer to the Lieutenant or Vice Lieutenant of the County; and in case the full Number of Men shall not be enlisted within such Period of Ten Days as aforesaid, the Regiment, or such Part thereof as shall not have been selected

shall be had within the next Ten Days.

lected as aforesaid, shall at the Expiration of such Period be again drawn out, and such Orders, and the Terms of enlisting as aforesaid, be again read and explained, and such Proceedings be had for enlisting of Men into any Regiment or Division as aforesaid as herein-before directed, within the Ten Days then next ensuing; and all such Men so enlisting shall, if approved, be entitled to such and the like Bounty as if they had declared their Intention to enlist when the Regiment, or any Part thereof, was first drawn out as aforesaid.

If the full Proportion of any County shall not enlist, future Vacancies shall be supplied according to 44 Geo. 3. Caps. 56 and 66, until the Militia be reduced to its original Quota.

VIII. And be it further enacted, That if the full Proportion of the Militia of any County, authorized to enlist under this Act, shall not have enlisted to serve in any Regiment or Division as aforesaid, then and in such Case the Vacancies that shall thereafter arise in such Militia shall be supplied according to the Provisions of Two several Acts, passed in the last Session of Parliament, intituled, *An Act for establishing and maintaining a permanent additional Force for the Defence of the Realm, and to provide for augmenting His Majesty's Regular Forces, and for the gradual Reduction of the Militia of* England, and *An Act for establishing and maintaining a permanent additional Force for the Defence of the Realm, and to provide for augmenting His Majesty's Regular Forces, and for the gradual Reduction of the Militia of* Scotland, respectively, until the Militia of such County shall be reduced to the original Quotas specified in the said Acts of the Forty-second Year aforesaid.

Serjeants and Corporals may be reduced to the Rank of private Soldiers.

IX. And be it further enacted, That any Serjeant or Corporal enlisting as such under this Act, may be reduced to the Rank of a private Soldier in any Regiment or Division as aforesaid, in case of any Misconduct, or for any such sufficient Cause, after his having so enlisted, as would, according to the Usage and Practice prevailing in any Regiment or Division as aforesaid, occasion the Reduction of a Serjeant or Corporal to the Rank of a private Soldier.

As soon as the Number to be enlisted from any Regiment is ascertained, they shall be discharged, and shall, if approved, be attested for General Service in the Regiments they have declared their Intention to enlist, and shall be entitled to the Bounty of Ten Guineas, *etc.*

X. And be it further enacted, That so soon as the Number of Serjeants, Corporals, and private Men to be enlisted from any Regiment, shall have been ascertained in Manner by this Act directed, the Commanding Officer of such Regiment is hereby required to discharge all such Serjeants, Corporals, and private Men so to be enlisted from the Militia; and every such Serjeant, Corporal, and private Man so discharged as aforesaid, shall, if approved by the Officer to be appointed by His Majesty for that Purpose, immediately thereupon belong to the Regiment, or Division into which he shall declare his Intention to enlist, and shall be immediately enlisted and attested for General Service for such Regiment or Division, and shall (as soon as conveniently may be) be transferred to some Officer of such Regiment or Division, or such Officer as His Majesty may have appointed to receive Men enlisted under this Act, and shall have and be entitled to the Allowance of the Bounty of Ten Guineas, of which Three Guineas shall be paid to such Man on his Approval by such Officer, at the Depôt, Rendezvous, or Place of Assembly for such Serjeants, Corporals, and private Men, which said Depôt, Rendezvous, or Place of Assembly shall not be nearer to the Head Quarters of the Regiment from which the said Serjeants, Corporals, and private Men shall have been discharged, than Six measured Miles), and the Remainder as soon as he

shall arrive at the Head Quarters of the Regiment or Division into which he shall have enlisted, together with Subsistence, Pay, and Cloathing, to be paid and furnished in like Manner in every respect, and subject to, and under the like Laws, Rules, and Regulations, as are provided and used for the Regiment or Division as aforesaid, into which he shall have enlisted.

The Lord Lieutenant, on receiving an Order from His Majesty, shall transmit to the Privy Council an Account of the Number of Men discharged, which shall, when necessary, be transmitted to him by the Commanding Officer.

XI. And be it further enacted, That the Lieutenant, or in his Absence the Vice Lieutenant or any Three Deputy Lieutenants, authorized by His Majesty to act as Lieutenant of any County aforesaid, shall, within Ten Days after the receiving of any Order for that Purpose from His Majesty, signified by His Majesty's Secretary of State, transmit to His Majesty's Privy Council an accurate Account in Writing of the Number of Persons that shall have been discharged from the Militia of their respective Counties, and enlisted in any Regiment or Division as aforesaid under this Act, which Accounts shall, in all Cases where the same may be necessary, be transmitted by the Commanding Officers of such Militia to such Lieutenants, Vice Lieutenants, or Deputy Lieutenants as aforesaid for that Purpose.

No Person in Confinement shall be entitled to enlist until he shall have suffered the Sentence of a Court Martial; nor any who have been in Confinement or sentenced to Punishment within a certain Period without Consent of the Commanding Officer.

XII. Provided always, and be it further enacted, That no Non-commissioned Officer, Corporal, or private Militia Man, shall be entitled to enlist under this Act who shall be in Confinement under any Sentence of any Court Martial, or with a View to being tried by any Court Martial, until he shall have suffered the Sentence of such Court Martial; and that no Non-commissioned Officer, Corporal, or private Militia Man, shall be entitled to his Discharge or to enlist under this Act, who shall have been in Confinement, or who shall have been sentenced to any Punishment by any Court Martial, for any Offence committed between the Twenty-first Day of *March* One thousand eight hundred and five and the Time of his so offering to enlist, unless he shall obtain the Consent of the Commanding Officer of the Regiment of Militia in which he shall be serving at the Time of his being desirous of enlisting as aforesaid.

No Serjeant or Corporal shall enlist into the Artillery as such.

XIII. Provided also, and be it further enacted, That no Serjeant or Corporal of Militia shall be permitted to enlist as such into His Majesty's Artillery.

Certain Persons not to enlist without the Consent of the Commanding Officer.

XIV. Provided also, and be it further enacted, That no Person serving in the Militia, who shall be usually employed as Adjutant's Clerk, or Regimental Clerk, or as a Drummer, or as a Musician in the Band of the Regiment of Militia to which he shall belong, or shall be usually employed as an Armourer in any such Regiment, shall be entitled to his Discharge, or to enlist into any Regiment or Division as aforesaid under this Act, unless he shall obtain the Consent for that Purpose of the Commanding Officer of the Regiment of Militia in which he shall be then serving.

Commanding Officers may refuse to discharge Men upon assigning sufficient Cause to the General commanding the

XV. And be it further enacted, That it shall be lawful for the Commanding Officer of any Regiment of Militia to refuse to discharge any Non-commissioned Officer, Corporal, or private Militia Man, who shall desire his Discharge for the Purpose of being enlisted under this Act, upon assigning in Writing to the General Officer commanding in the District within which such Regiment of Militia shall be quartered, or to the

District, or to the Adjutant General.

the Adjutant General of His Majesty's Forces, where there shall not be any such General Officer as aforesaid, such Cause for his Refusal as shall be deemed sufficient by such General Officer or Adjutant General, as the Case may be.

If any Person discharged shall refuse to enlist, or shall not be approved, he shall continue to belong to the Regiment from which discharged.

XVI. Provided always, and be it further enacted, That if any Person discharged from the Militia for the Purpose of being enlisted into any Regiment or Division as aforesaid, under this Act, shall notwithstanding refuse to enlist pursuant to any Declaration of being desirous to enlist so made by him as aforesaid, or shall not be approved by the Officer appointed by His Majesty for that Purpose, then and in every such Case such Person shall continue to belong to the Regiment of Militia from which he shall have been so discharged for the Purpose of enlisting as aforesaid, notwithstanding any such Discharge.

Act not to authorize the enlisting or persuading to enlist any Man not duly discharged.

XVII. Provided also, and be it further enacted, That nothing in this Act contained shall authorize any Officers appointed by His Majesty to enlist and receive Militia Men under this Act, or any Commanding Officer or other Officer, or Non-commissioned Officer of any Regiment or Division as aforesaid, or other Person, to enlist or persuade to enlist, or receive any Militia Men other than such as shall have been duly discharged by the Colonel or Commanding Officer of the Regiment of Militia to which the Person desirous of enlisting shall belong.

His Majesty may issue Orders to Lords Lieutenant and Commanding Officers for putting this Act in Execution.

XVIII. And be it further enacted, That it shall be lawful for His Majesty, by any Order signified by His Majesty's Secretary of State at any Time, from Time to Time during the Execution of this Act, or any Part thereof, to give such Orders and Directions to the Lieutenants, or in the Vacancy of the Office, or Absence of any Lord Lieutenant, to the Vice Lieutenant or Deputy Lieutenants authorized to act as Lieutenant, or to the respective Colonels or Commanding Officers of any Regiments of Militia as His Majesty shall from Time to Time think expedient and necessary for the Execution of this Act; and the several Lieutenants, Vice Lieutenants, and Deputy Lieutenants, and Colonels and Commanding Officers aforesaid, shall proceed forthwith, in pursuance of His Majesty's Orders, to do all such Acts as shall be necessary for the Purpose of carrying such Order into Execution, and for the due Execution of the Provisions of this Act.

His Majesty may make a new Arrangement of the Establishment of the Regiments of Militia.

XIX. And be it further enacted, That it shall be lawful for His Majesty, whenever He shall think proper, after the passing of this Act, to cause the Militia of any County or Counties to be formed into such and such Number of Regiments, Battalions, or Companies, as His Majesty shall deem expedient, or to unite any Number of Companies of Militia of any Counties, Ridings, or Places, not having respectively a sufficient Number of Men to form a distinct Battalion or Company, Regard being had to the Reduction that shall have taken place in the Militia of such County or Counties by the Enlistment of Men into any Regiment or Division as aforesaid, under this Act, and conforming in every such Case, as near as the Proportion of Men left after such Reduction as aforesaid will admit, to the original Establishment of the Militia of such County or Counties, Riding or Place, with respect to the Regiments, Battalions,

or Companies of which the ſame was compoſed, under the ſaid Two Acts of the Forty-ſecond Year aforeſaid.

XX. And be it further enacted, That every Perſon who ſhall be enliſted to ſerve in any Regiment or Diviſion ſo named and appointed as aforeſaid, ſhall ſerve in the Regiment or Diviſion in which he ſhall originally have enliſted to ſerve, and in no other Regiment or Diviſion whatever; and no Perſon enliſting in any ſuch Regiment or Diviſion, ſhall, on any Account or Pretence whatſoever, be drafted into or ſerve in any other Regiment or Diviſion, whether ſuch Perſon ſhall conſent to his being ſo drafted or not, unleſs in every ſuch Caſe, the Perſon ſo conſenting to ſerve in any other Regiment or Diviſion, other than the one for which he ſhall have ſo enliſted as aforeſaid, ſhall have been firſt wholly and abſolutely diſcharged from all Service whatever in any Regiment or Diviſion as aforeſaid, and ſhall thereafter have voluntarily enliſted into ſuch other Regiment or Diviſion as aforeſaid.

No Perſon ſhall be drafted from the Regiment in which he enlifted unleſs firſt diſcharged therefrom.

XXI. And be it further enacted, That upon the Production to the Lieutenant or Vice Lieutenant, or Three Deputy Lieutenants of any County, of a Certificate under the Hand of any Juſtice of the Peace of any County in *Great Britain*, or of any Magiſtrate of any Borough, Town, or Place therein, of any private Man belonging to the Militia having voluntarily enliſted and been atteſted as aforeſaid, and of a like Certificate under the Hand of any Officer appointed by His Majeſty to receive ſuch Men, of ſuch Man having been atteſted for any Regiment or Diviſion as aforeſaid (which Certificates every ſuch Juſtice or Magiſtrate and Officer reſpectively is hereby required to give *gratis*), ſuch Lieutenant, Vice Lieutenant, or Deputy Lieutenants is and are hereby required to cauſe the Perſon named in ſuch Certificate to be diſcharged from the Liſt of Militia Men ſerving for ſuch County, and the Certificate of the Number of Men to be raiſed for the Militia of ſuch County, to be amended by ſtriking out ſuch Number of Men as ſhall be enliſted from the Militia of ſuch County by virtue of this Act.

On Production to the Lord Lieutenant of Certificates of Men having been enliſted, their Names ſhall be diſcharged from the Liſt of Men ſerving for the County, and the Certificate of the Number to be raiſed amended.

XXII. And be it further enacted, That if by reaſon of any enliſting under this Act the private Men that ſhall remain ſerving in any Hundred or other Diviſion, Pariſh or Pariſhes of any County ſhall exceed, and in any other Hundred or Diviſion, or Pariſh or Pariſhes ſhall be leſs, than the Men required to ſerve for ſuch reſpective Hundreds, Diviſions, or Pariſhes, according to the Apportionment made of the original Quota of ſuch County, it ſhall be lawful for the Lieutenant and Deputy Lieutenants of ſuch County to regulate the ſupplying of all Vacancies that ſhall hereafter ariſe in reſpect of Men ſerving for Pariſhes having ſuch Exceſs by the Pariſhes having leſs than their due Proportion, until the Men ſerving for each Pariſh ſhall correſpond with the Apportionment made of the original Quota.

Where by enliſting the Men remaining ſhall exceed in ſome and be leſs in other Diviſions of any County than their original Quotas, the Lieutenancy may regulate the ſupplying future Vacancies accordingly.

XXIII. And be it further enacted, That the Adjutant of every Regiment of Militia ſhall, within One Week after the Whole of the Men allowed to enliſt out of his Regiment under this Act ſhall have enliſted, or after the Expiration of the Period in which Men ſhall be allowed to enliſt from his Regiment, tranſmit to the reſpective Clerks of the Subdiviſion Meetings for the County to which the Regiment belongs, or where

Adjutants of the Militia to tranſmit Returns of the Men who have enliſted under this Act, to the Clerks of the Subdiviſion Meetings,

who shall transmit to the County Treasurer in *England* an Account of the Serjeants and Corporals, and to the Overseers in *England* and Treasurers of the Kirk Session in *Scotland* an Account of the Privates so enlisted.

where the Men of more than One County shall be so serving, then to the Clerks of such respective Counties, an accurate Return of all the Serjeants and Corporals, and also of the private Men serving for their respective Subdivisions, who shall have enlisted under this Act, specifying therein the Christian and Surname of each Serjeant, Corporal, and private Man; and in every Case of a private Man, whether such Man shall be a balloted Man, Substitute, hired Man, or Volunteer, and the Parish or Place for which he was serving at the Time of such inlisting; and the said Clerks shall, immediately upon the Receipt of such Returns, transmit to the Treasurer of the County, if in *England*, an Account of the Serjeants and Corporals that shall have been so inlisted, and to the respective Overseers of the Poor, if in *England*, and the Treasurers of the Kirk Session, if in *Scotland*, an Account of the Men serving for their respective Parishes or Places who shall have inlisted under this Act; and all Allowances payable to the Wives and Families of any such Serjeants, Corporals, and private Men, by virtue of Two Acts of the Forty-third Year of His present Majesty's Reign, for providing Relief for the Wives and Families of Militia Men in *England* and *Scotland* respectively, in respect whereof any Reimbursement shall be directed by the said Acts, shall be reimbursed according to the Directions of the said Acts, up to the End of the Period for making up Accounts of such Allowances, previously to which such enlisting shall have taken Place, unless Notice shall have been given to the Overseers or Treasurers of the Kirk Session, entitled to claim any such Reimbursements, to discontinue such Allowances, in which Case such Allowances shall be reimbursed only up to the End of the Week next preceding such Notice being given.

How Allowances to the Families of such Serjeants, *etc.* shall be settled.

Act not to extend to Counties where the Number of Men serving shall be less than their original Quotas.

XXIV. Provided always, and be it further enacted, That nothing in this Act contained shall be construed to extend to any County, the Number of Men actually serving for which County shall be less than the original Quota thereof.

Provisions relating to Counties and to Regiments shall extend to Stewartries, Battalions, *etc.*

XXV. And be it further enacted, That all Provisions, Directions, Clauses, Matters, and Things in this Act contained, relating to Counties and to Regiments respectively, shall extend to all Stewartries, Ridings, Divisions, Cities, and Places in *Great Britain*, and to all Battalions, Corps, and Companies, as fully and amply as if they were severally and respectively repeated in every such Provision, Direction, and Clause relating to any such Matter or Thing.

Act may be altered or repealed this Session.

XXVI. And be it further enacted, That this Act may be altered, amended, or repealed, by any Act or Acts to be made in this present Session of Parliament.

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