

ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

CAP. IV.

An Act to allow a certain Proportion of the Militia of *Great Britain*, to enlist voluntarily into the Regular Forces. [13th *March* 1809.]

WHEREAS it is necessary that the most effectual Measures should be taken for augmenting His Majesty's Regular Forces; and it is therefore expedient to allow so many of the Militia of *Great Britain* as will leave serving, including Corporals, Three-fifths of the Number of the Establishment in Rank and File of each Regiment of Militia, to enlist into His Majesty's Regular Forces, under certain Provisions and Restrictions; and to enable His Majesty to accept the Services of the Men so voluntarily enlisting: 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 signed by His Majesty's Secretary of State, to name and appoint such and so many Regiments of His Majesty's Regular Forces as His Majesty shall think fit, to receive Volunteers from the Militia in *Great Britain*, under this Act, out of any Regiment or Regiments of Militia named in any such Order; and it shall be lawful for any Number of 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 as aforesaid, which, in any such Order of His Majesty, shall be named to receive Volunteers from such Regiment of Militia.

His Majesty may appoint Regiments of the Regular Forces in which Militia Men may enlist.

Limiting the Number of Men to be enlisted.

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 Regiment or Battalion or not, or whether the Militia of Two or more Counties shall be included in One Regiment or Battalion, shall not in any Case exceed such Number of the Private Men of such Militia as will leave serving, including Corporals, Three-fifths of the Number of the Establishment in Rank and File of each Regiment of Militia respectively; 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; or in case the Militia of Two or more Counties shall be included in One Regiment or Battalion, His Majesty's Secretary of State shall ascertain the Proportion of the Men of the Militia of each County to be allowed to enlist out of any such Regiment.

Proportion of Men allowed to enlist where the Number of Men in any Regiment exceeding Three-fifths of the present Establishment shall be less than Two-fifths of the Establishment in 1807.

III. Provided always, and be it further enacted, That in every Case in which the Number of Men in such Regiment exceeding Three-fifths of the present Establishment shall be less than Two-fifths of the Establishment of such Regiment, as the same stood in the Month of *August* One thousand eight hundred and seven, then and in such Case a Number of Men equal to Two-fifths of such Establishment of the Year One thousand eight hundred and seven, shall be allowed to enlist under this Act, notwithstanding such enlisting shall not leave serving Three-fifths of the present Establishment of such Regiment as aforesaid, and the same shall be deemed the Quota allowed to enlist out of such Regiment under the Provisions of this Act.

Commanding Officer to ascertain the Numbers willing to enlist.

IV. 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 Regiments 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 Private Men willing to enlist into any Regiment of His Majesty's Regular Forces so specified, or into His Majesty's Regular Forces as aforesaid, out of his Regiment; and if the Number of such Private Men who shall upon Inspection be approved, shall amount to Five-sixths of the Number allowed to enlist as aforesaid, forthwith to deliver them to the Officer appointed to receive such Volunteers; and in case such a Proportion of Private Men so approved as aforesaid, shall be so delivered as aforesaid within Thirty Days after the Receipt of the Order of His Majesty's Secretary of State as aforesaid, no further Number of Private Men shall be allowed to enlist out of such Regiment unless with the Consent of the Commanding Officer, who may, if he shall think fit, discharge the full Number of Men allowed by this Act.

His Majesty may appoint Officers to approve or reject the Men.

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 Private Men who shall be desirous of

of enlisting under this Act, and such Officers may approve of, or reject, such Private Men accordingly: Provided always, that nothing in this Act contained shall extend to authorize any such Officers to reject any Private Men desirous of enlisting as aforesaid, who shall be of the Height of Five Feet and Four Inches or upwards, unless His Majesty shall authorize the enlisting of any Men under this Act into His Marine Forces, and under the Age of Thirty-five Years, and not disabled by Lameness or other Bodily Infirmity.

Men enlisted into the Regulars may be transferred to the Marines.

VI. And be it further enacted, That it shall be lawful for His Majesty to authorize any Men having enlisted into His Regular Forces under this Act, to transfer their Service into His Marine Forces; and any such Person so agreeing to transfer his Service, in case he shall refuse to be attested for the Marine Forces, shall belong to His Majesty's Regular Forces under his Enlistment, under the Provisions of this Act.

Commanding Officer of every Regiment, out of which the Proportion limited shall not enlist, shall read His Majesty's Order, and explain the Terms of Enrolment.

VII. And be it further enacted, That the Commanding Officer of every Regiment of Militia, out of which such Proportion of Five-sixths shall not have enlisted within such Thirty Days, and been delivered to such Officer as aforesaid, shall within Two Days after the Expiration of such Thirty Days, cause 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 in relation to enlisting under this Act, 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 His Majesty's Regular Forces under this Act, and shall on the Day next succeeding cause his Regiment 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 to be written down; and if the Number of such Men shall exceed the Proportion allowed to enlist, that is to say, such Number of Men as shall be serving at the Time of passing of this Act, beyond the Proportion of Three-fifths as aforesaid, such Excess shall be reduced by Ballot to the Number authorized to enlist.

If the Number who shall enlist shall not be the due Proportion, a further Enlistment may take place.

VIII. Provided always, and be it further enacted, That if the Number of Private Men in any Regiment of Militia who shall (when so drawn out as aforesaid) voluntarily declare their Intention to enlist, shall not amount to the Proportion authorized to enlist as aforesaid, 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 Seven Days after the last Day of such Two Days on which such Regiment of Militia shall have been drawn out, to enlist 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.

Appointing further Periods for enlisting the full Proportion.

IX. And be it further enacted, That from and after the Expiration of such Seven Days as aforesaid, no Private Militia Man shall be allowed to enlist (unless with the Leave and Consent in Writing of the Commanding Officer of the Regiment of Militia to which he shall belong, which Leave and Consent every such Commanding Officer is hereby authorized and empowered to give) for One Calendar Month succeeding such Seven Days as aforesaid;

aforeſaid; and at the End of ſuch Month the Commanding Officer of every Regiment of Militia, in which the full Number of Men ſhall not have enliſted, ſhall again cauſe ſuch Regiment to be drawn out, and again read to the Men ſo drawn out, His Majeſty's Orders aforeſaid, in relation to the enliſting of Men from the Militia under this Act, or ſuch other or further Orders as he may have received in that Behalf, and ſhall, in like Manner as before, cauſe the Names of all the Men who ſhall voluntarily declare their Intention of enliſting, to be written down, and ſhall cauſe a Book to be opened, and to be kept open for that Purpoſe, for Three Days ſucceeding the drawing out ſuch Regiment as aforeſaid; and if any greater Number of Men ſhall offer than ſhall remain to be enliſted, the Exceſs ſhall be reduced by Ballot; and it ſhall be lawful for any Private Man during ſuch Three Days to enliſt under the Terms and Conditions of this Act, until the full Proportion of Men allowed to enliſt from ſuch Regiment ſhall have enliſted; and at the Expiration of ſuch Three Days no further enliſting ſhall be allowed, unleſs with the Conſent of the Commanding Officer as aforeſaid, until the Expiration of a further Period of One Calendar Month, at the Expiration whereof ſuch further and like Proceedings ſhall again be had, and enliſting again be allowed as aforeſaid, for the like Period of Three Days, and ſo on for Three other Periods of Three Days each reſpectively at Intervals of Three Calendar Months between each of ſuch laſt mentioned Three Periods of Three Days each reſpectively as aforeſaid, making on the whole Six Periods of enliſting, the Firſt thereof of Seven Days, and the remaining Five of Three Days each reſpectively, with Intervals between each of the Three Firſt Periods of one Month as aforeſaid, and between each of the Three laſt Periods of Three Months as aforeſaid, until the full Number of Men allowed to enliſt from ſuch Regiments ſhall have enliſted: Provided always, that until the full Proportion allowed to enliſt from any Militia, ſhall have enliſted, it ſhall be lawful for any Private Militia Men now ſerving, or who may hereafter be ballotted to ſerve, or engage to ſerve as Subſtitutes or Volunteers in the Militia, to enliſt at the Periods, and in the Manner in this Act mentioned: Provided always, that no enliſting under this Act ſhall take place after the Expiration of the laſt Period allowed for enliſting as aforeſaid; any Thing in this Act contained to the contrary notwithſtanding.

As ſoon as the Number of Men to be enliſted is aſcertained, they ſhall be diſcharged, and if approved, atteſted.

X. And be it further enacted, That ſo ſoon as the Number of 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 Private Men ſo to be enliſted from the Militia, and every ſuch 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 into which he ſhall declare his Intention to enliſt, if he ſhall have enliſted into any Regiment of His Majeſty's Regular Forces ſpecified by His Majeſty, in which he may have been allowed by His Majeſty's Orders to enliſt, or ſhall belong as an enliſted Soldier to His Majeſty's Forces, and ſhall be immediately atteſted for Service in ſuch Regiment, or in His Majeſty's Regular Forces, as the caſe may be, and ſhall (as ſoon as conveniently may be) be tranſferred to ſome Officer of ſuch Regiment, or ſuch Officer of His Majeſty's Regular Forces, as His Majeſty may have appointed to receive Men enliſted under this Act.

XI. And

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 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.

Lord Lieutenant to tranſmit to the Privy Council the Number of Men diſcharged.

XII. Provided always, and be it further enacted, That no 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; or ſhall have been acquitted, or until ſuch Sentence ſhall have been remitted; and that no Private Militia Man ſhall be entitled to his Diſcharge, or to enliſt under this Act, who ſhall have been ſentenced to any Puniſhment by any Court Martial, for any Offence committed within the Space of Three Calendar Months before 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 Perſon in Confinement ſhall be entitled to enliſt until he ſhall have ſuffered the Sentence of a Court Martial.

XIII. Provided alſo, and be it further enacted, That no Perſon ſerving in the Militia, who ſhall be uſually employed as Adjutants 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, or who ſhall have been trained as and ſhall be attached to any Artillery belonging to any Regiment of Militia, as an Artillery Man or Matroſs, not exceeding Twenty Men in each Battalion, ſhall be entitled to his Diſcharge, or to enliſt 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.

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

XIV. Provided always, and be it further enacted, That it ſhall be lawful with the Conſent of the Officer commanding any Regiment of Militia, for any Number of Serjeants and Corporals not exceeding the Proportion of One Serjeant and One Corporal for every Twenty Men enliſting from any Regiment of Militia, to enliſt in like Manner, and at ſuch Periods as a Part of the ſaid Quota into His Majeſty's Regular Forces, and if any greater Number of Serjeants and Corporals than ſuch Proportion as aforeſaid ſhall be deſirous of enliſting as aforeſaid, ſuch Number ſhall be reduced by Ballot to the Number authorized to enliſt.

Serjeants and Corporals may enliſt in a certain Proportion.

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 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 Adjutant General of His Majeſty's Forces where there

Commanding Officers may refuſe to diſcharge Men upon ſufficient Cauſe.

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.

Perſons diſcharged refuſing to enliſt or not approved of, they 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 as aforeſaid, or into His Majeſty's Regular Forces, 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.

Officers not authorized to enliſt, or perſuade to enliſt any Militia Men, other than ſuch as ſhall have been 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 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 Lord Lieutenant and Commanding Officers, for executing Act.

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.

No Perſon ſhall be drafted from the Regiment in which he enliſted, &c.

XIX. And be it further enacted, That every Perſon who ſhall be enliſted to ſerve in any Regiment, ſo named and appointed as aforeſaid, ſhall ſerve in the Regiment in which he ſhall originally have enliſted to ſerve, and in no other Regiment whatever; and no Perſon enliſting in any ſuch Regiment ſhall, on any Account or Pretence whatſoever, be drafted into, or ſerve in any other Regiment, without his Conſent, except into ſome Garriſon or Veteran Battalion, in caſe it ſhall be neceſſary or expedient to transfer ſuch Perſon into any Garriſon or Veteran Battalion, on account of his being diſabled, or for any other ſufficient Cauſe; and every ſuch Perſon may be alſo transferred from one Battalion to another, of any Regiment in which he may be ſerving.

On Production of Certificates of Enliſtment, Men to be

XX. And be it further enacted, That upon the Production to the Colonel or Commanding Officer of any Regiment of Militia, 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 for His Majeſty's Regular Forces as aforeſaid, (which Certificate every ſuch Juſtice or Magiſtrate and Officer reſpectively, is hereby required to give *gratis*) ſuch Colonel or Commanding Officer is hereby required to cauſe the Perſon named in ſuch Certificate to be diſcharged from the Liſt of Militia Men ſerving for ſuch County. diſcharged from Militia Regiment.

XXI. And be it further enacted, That the Adjutant of every Regiment of Militia ſhall at the End of every Week after the Commencement of the enliſting of Men under this Act, and until the whole Number of Men allowed to enliſt from his Regiment ſhall have enliſted, tranſmit to the reſpective Clerks of the Subdiviſion Meetings for the County to which the Regiment belongs, or 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 Private Men ſerving for their reſpective Subdiviſions who ſhall have enliſted under this Act, ſpecifying therein the Chriſtian and Surname of each Private Man, and in every Caſe of a Private Man, whether ſuch Man ſhall be a Ballotted Man, Subſtitute, Hired Man, or Volunteer, and the Pariſh or Place for which he was ſerving at the Time of ſuch enliſting, and the ſaid Clerks ſhall immediately upon the Receipt of ſuch Returns, inſert in the Liſt of Militia Men ſerving for their reſpective Subdiviſions, the Words "Volunteered into the Line," after the Name of each Man ſo returned to them as aforeſaid, and all Allowances payable to the Wives and Families of ſuch Private Men ſo enliſting ſhall ceaſe from the Period of enliſting, and the ſaid Clerks ſhall forthwith tranſmit to the reſpective Overſeers of the Poor, or Governors or Managers thereof, if in *England*, and to the reſpective Clerks of Supply, and alſo to the Treaſurers of the Kirk Seſſion, if in *Scotland*, an Account of the Men ſerving for their reſpective Pariſhes or Places who ſhall have enliſted under this Act; and all Allowances payable to the Wives and Families of any ſuch Private Men by virtue of any Acts of Parliament 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 Time ſuch enliſting ſhall have taken place. Returns of Militia Men, who ſhall have enliſted under this Act, to be made.

XXII. And be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to the City of *London*. Act not to extend to London.

XXIII. 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. Extending Proviſions of Act.

XXIV. 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. Act may be altered or repealed this Seſſion.

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