

NEW ZEALAND.



ANNO VICESIMO PRIMO ET VICESIMO SECUNDO  
**VICTORIÆ REGINÆ,**  
 No. 8,

ANALYSIS :

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| <p>Title.<br/>                 Preamble.<br/>                 1. Power to Governor to call together Militia.<br/>                 2. Governor to constitute Militia Districts.<br/>                 3. And to appoint Officers.<br/>                 4. And Staff.<br/>                 5. And to regulate the formation of Regiments, &amp;c.<br/>                 6. And to make Regulations for Training, &amp;c.<br/>                 7. And to call Militia or any part into Actual Service.<br/>                 8. When part only called out substitutes may be provided.<br/>                 9. Militiaman if seriously wounded entitled to pension.<br/>                 10. Who liable to serve as Militiamen.<br/>                 11. Magistrates to form Militia Lists.<br/>                 12. Justices to correct List.</p> | <p>13. Copy of List to be sent to person appointed by Governor.<br/>                 14. Persons on existing Militia Lists liable to serve.<br/>                 15. Notice of time and place of training, &amp;c, to be given.<br/>                 16. Penalty for not appearing.<br/>                 17. Penalty for not attending.<br/>                 18. Notice to be given to Militiamen when called into Actual Service.<br/>                 19. Penalty for not joining.<br/>                 20. Penalty for concealing Militiamen.<br/>                 21. Oath to be taken.<br/>                 22. Penalty for selling or receiving Arms, &amp;c.<br/>                 23. Militia to be subject to Articles of War, &amp;c.<br/>                 24. Volunteers may be enrolled.<br/>                 25. Militia Ordinance passed by Governor and Legislative Council repealed.<br/>                 26. Short Title.</p> |
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**AN ACT for raising a Militia within the Colony. [28th May, 1858,]** Title.

**WHEREAS** it is expedient that the European population of New Zealand should be trained to the use of arms so as to form an effective Military Force, for the defence of the lives and property of Her Majesty's subjects within the Colony: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by the authority of the same, as follows:

I. It shall be lawful for the Governor to call together, arm, and array as a Militia such persons as are hereinafter mentioned, and, subject to the provisions hereinafter contained, to cause them to be trained and exercised accordingly, at such times and places as shall seem meet. Power to Governor to call together Militia.

*Militia.*

Governor to constitute Militia districts.

II. It shall also be lawful for the Governor in Council from time to time to constitute throughout the Colony, or in any part thereof, Militia Districts, and such Districts from time to time to abolish and the boundaries thereof to vary, and to designate the Militia of any such District by the name of a Regiment, Battalion, Corps or Company, as he shall think fit.

And appoint Officers.

III. It shall also be lawful for the Governor to appoint a proper number of Officers to train, discipline, and command every Regiment, Battalion or other body according to the Regulations to be from time to time made in that behalf.

And Staff.

IV. It shall also be lawful for the Governor to appoint a permanent Staff in such of the said Districts as he shall think fit, consisting of not more than the following persons, viz., one Adjutant, one Sergeant, one Corporal, and one Bugler or Drummer, who shall be paid out of such sums as shall from time to time be appropriated by the General Assembly for that purpose, after the following rate, viz. :—

Each Adjutant, not exceeding .....	8s. a-day
Each Sergeant, not exceeding .....	4s. a-day
Each Corporal, not exceeding .....	3s. a-day
Each Bugler or Drummer, not exceeding .....	2s. 6d. a-day.

And to regulate the formation of Regiments, &c.

V. It shall also be lawful for the Governor to cause the Militia, of every district to be formed and regulated as to Regiments, Battalions, Corps and Companies, in such manner as to His Excellency shall seem meet.

And to make Regulations for Training, &c.

VI. It shall also be lawful for the Governor from time to time to make such Regulations respecting the training and exercise, arms and accoutrements, clothing and equipment, pay, rations and lodging of such Militia, or any part thereof, and respecting all other matters connected therewith which may be required for promoting the efficiency of such Militia as a Military Force: Provided always, that the Regulations so to be made shall not in anywise be repugnant to the provisions of this Act.

And to call Militia or any part thereof into Actual Service.

VII. In all cases of actual Invasion, or upon imminent danger thereof, and in all cases of Rebellion or Insurrection, or upon any imminent danger to the safety of any part of the Colony it shall be lawful for the Governor, or such person as he shall from time to time by warrant under his hand appoint as his deputy for that purpose, to direct the Officer commanding the Militia of any district with all convenient speed to draw out for Actual Service such Militia Force, or such part or number thereof as the Governor or such deputy shall judge necessary, and in such manner as shall to him seem best adapted to the circumstances of the danger, and to lead the said Forces into any part of the district in which such Militia shall have been raised, and such Militia shall continue on actual service so long as, in the opinion of the Governor, the danger shall render their services necessary: Provided always, that neither the whole nor any part of the Militia to be raised in any district, shall on

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any account be carried or ordered to go beyond the boundaries of such district, except only such as shall volunteer for service out of the same.

VIII. When the Governor, or his deputy as aforesaid, shall think fit to draw out a portion only of the Militia of any district the persons to be so drawn out shall be chosen by ballot according to such Rules as the Governor shall from time to time make for that purpose: Provided always that when any person so chosen by ballot shall produce for his substitute a man, who shall be approved of, as fit and able to serve by the Commanding Officer of the Regiment, Battalion, Corps or Company, of the District in which he shall propose to serve, such substitute shall be accepted instead of the balloted person; and any balloted person for whom such substitute shall be so produced, approved and accepted, shall be exempt from service for one year unless the whole of the Militia of the district shall be drawn out for Actual Service during such year, and such substitute shall serve as if he had himself been balloted or chosen.

When part only called out to be chosen by Ballot; substitutes may be provided.

IX. Every Militiaman who shall be so seriously wounded or otherwise injured, when on Actual Service, as to afterwards impede his obtaining a livelihood, shall be entitled to a pension so long as he shall be so disabled, according to such Regulations as the Governor in Council shall from time to time make in that behalf, as nearly as the circumstances will admit in accordance with the Regulations in force in respect of the Queen's Regular Troops, and of a similar amount.

Militiaman if seriously wounded entitled to pension.

X. Every man except as hereinafter excepted, between the ages of eighteen years and sixty years, being a British subject, and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in such Militia: Provided that, the Judges of the Supreme Court, Members of the Executive Council of the Colony, Members of the General Assembly, Superintendents of Provinces, Members of Provincial Councils during Session, Clergymen, Priests, Ministers of Religion, and Catechists, shall be exempt from serving in any such Militia.

Who liable to serve as Militiamen.

XI. A Justice of the Peace to be appointed in every Militia district by the Governor shall, in the month of March in every year, call a Special Meeting of the Justices of the Peace residing within such district for the purpose of forming a Militia List, and the Justices at such Meeting, or at any adjournment thereof, (any two being a quorum), shall prepare a List, in alphabetical order, of all men residing within such district who shall be liable under the provisions of this Act, to serve as Militiamen, setting forth the Christian and Surname of each at full length, together with his place of abode, calling, or business. The Justice so appointed as aforesaid shall forthwith cause Copies thereof to be affixed on such conspicuous places throughout the District as to him shall seem meet; and to such List and Copies thereof shall subjoin a Notice that all objections thereto will be heard and determined by such Justices at any

Magistrates to form Militia List.

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time within ten days after the date of such Notice. Provided that it shall be lawful for the Governor from time to time by notice published in the *New Zealand Government Gazette* to vary the months appointed for the preparation of such lists.

Justices to correct List.

XII. Such Justices shall have power, after hearing such objections, to strike out of the said List the names of all persons who shall not be liable to serve as Militiamen, and also of such as are afflicted by lunacy or unsoundness of mind, or deafness, blindness, lameness, or by any other disorder that may render them unfit for Active Service in any such Militia; and also during such ten days to add such names as may be found to have been accidentally or improperly omitted.

Copy of List to be sent to person appointed by the Governor.

XIII. A copy of the List so corrected by the said Justices shall be transmitted by them forthwith to such person as the Governor shall from time to time appoint to receive the same.

Persons on existing lists liable to serve.

XIV. Until the formation of Militia Lists under this Act, all persons on the existing Militia Lists shall be deemed liable to serve as Militiamen under the provisions of this Act.

Notice of time and place of training to be given.

XV. Notice of the times and places for training and exercise, to be from time to time fixed by the Governor, or by such person as he may from time to time appoint for that purpose, shall be posted in such conspicuous places within the District, fourteen days at least before the time to be so appointed as aforesaid, which shall be deemed sufficient notice to every Militiaman; and all such Militiamen shall duly attend accordingly: Provided always that it shall be lawful for the Governor, or such person as he shall appoint as his deputy for that purpose from time to time to call out the whole, or any part, or number, of any Regiment, Battalion, Corps, or Company, as he shall think fit: Provided also, that no Militiaman shall be compelled to attend for training and exercise more than one hundred and sixty-eight hours in any one year.

Penalty for not appearing.

XVI. Every Militiaman (not labouring under any infirmity incapacitating him) who shall not appear at the time and place appointed for his being trained and exercised, (notice having been given as by this Act required,) shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Penalty for not attending.

XVII. Every Militiaman who, having joined the Regiment, Battalion, Corps or Company, to which he may belong, shall desert or absent himself during any part of the time appointed for any such exercise, shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Notice to be given to Militiamen when called into Actual Service.

XVIII. When the whole or any part of such Militia shall be ordered out into Actual Service as aforesaid, the person to whom such order shall be directed shall forthwith cause notice in writing to be given to the several Militiamen, or left at their usual places of abode, to attend at the time and place mentioned in such Order.

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XIX. If any Militiaman so directed to be drawn out (not<sup>t</sup> labouring under any infirmity incapacitating him to serve as a Militiaman), shall not appear and march in pursuance of such direction, every such Militiaman 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 for the better payment of the Army and their Quarters, and of the Articles of War made in pursuance of the same.

Penalty for not joining.

XX. If any person knowingly shall harbour or conceal any such Militiaman when directed so to be drawn out, he shall for every such offence forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

Penalty for concealing Militiaman.

XXI. Every Militiaman who shall appear at the time and place appointed for exercise, shall take an Oath, in the form following, viz.,

Oath to be taken.

I, A. B., do sincerely promise and swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria, and that I will faithfully serve in the Militia until I shall be lawfully discharged, and shall thereupon be enrolled. The said Oath shall be taken in the presence of the Senior Officer of Militia then present, who is hereby authorised and required to administer the same: Provided that if any Militiaman shall refuse to take such Oath, he shall forfeit and pay any sum not exceeding twenty pounds, to be recovered in a summary way.

XXII. If any Militiaman shall sell, pawn, or lose any of his arms, clothes, accoutrements, or ammunition, or neglect or refuse to return the same in good order to his Captain, or to the person appointed to receive the same: or if any person shall knowingly and wilfully buy, take in exchange, conceal, or otherwise receive any Militia arms, clothes, accoutrements, or ammunition whatever, every such offender shall forfeit and pay for every such offence any sum not exceeding £10, to be recovered in a summary way.

Penalty for selling or receiving Arms, &c.

XXIII. During the time that any such Militia shall be assembled for the purpose of being trained and exercised, or for Actual Service, all things contained in any Act of Parliament which shall then be in force for punishing Mutiny and Desertion, and for the better payment of the Army and their Quarters, and in the Articles of War made in pursuance of such Act, shall be in force with respect to such Militia, and to all the Officers, non-Commissioned Officers, Drummers, and Privates of the same in all cases whatsoever.

Militia to be subject to Articles of War, &c.

XXIV. And whereas it is expedient to encourage the enrolment of Volunteers for Military or Naval Service in the Colony: Be it therefore further enacted that it shall be lawful for the Governor in Council from time to time to make, vary, and abolish Regulations under which the Service of Volunteers shall be accepted in any Militia district, and whenever any Volunteers shall be

Volunteers may be enrolled.

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enrolled under such Regulations they shall be subject to such of the provisions of this Act as shall be specified in such Regulations, and to none other of such provisions, and all such Regulations shall have the same force and effect as though they had been embodied in and formed part of this Act: Provided always that whenever the whole of the Militia of any district is drawn out for Actual Service, the Volunteers in such district shall always be liable to serve, either as a body, or such of them as are on the Militia Roll as part of the Regular Militia; and that whenever a part or certain number only of the Militia of any district is chosen by ballot for Actual Service, any Volunteers being on the Militia Roll shall be liable to such ballot, and if chosen to serve accordingly, unless they shall be or shall consent to go, if required on Actual Service as Volunteers.

Militia Ordinance  
passed by Governor  
and Legislative Council  
repealed.

XXV. An Ordinance enacted by the Governor and Legislative Council of New Zealand, in the year 1845, intituled "An Ordinance for raising a Militia within the Colony" shall be repealed, so far as relates to the forming of a Militia Roll, on the passing of this Act, and so far as regards the other Provisions of the said Ordinance, on the 1st day of November, 1858.

Short Title.

XXV. The Short Title of this Act shall be "The Militia Act, 1858."