

---

---

No. XXXIV.

AN ACT to amend "*The Militia Act, 1858.*"

[3rd November, 1860.]

MILITIA ACT  
AMENDMENT.

WHEREAS it is expedient to amend "*The Militia Act, 1858.*" Preamble.  
BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "*The Militia Act* Short Title.  
*Amendment Act, 1860.*"

2. Regulations to be made by the Governor under section five of the said Act shall contain provisions as follows, or to the like effect, that is to say,— Regulations to be made under section 5 of "*The Militia Act, 1860.*"

Every Militia District shall be divided into so many divisions as the Governor shall think fit, and the Militiamen

*Militia Act Amendment.*

resident in such division shall be formed into a battalion or company.

Each battalion or company shall be divided into three classes. The first class shall consist of all unmarried men and all widowers without children, between the ages of sixteen years and forty years, both inclusive, who shall be called "First Class" service men; the second class shall consist of all married men and widowers with children, between the same ages, who shall be called "Second Class" service men; and the third class shall consist of all men between the ages of forty years and fifty-five years, who shall be called the "Reserve" men.

Section 8 of "*Militia Act, 1858*," repealed.

3. Section eight of the said "*Militia Act, 1858*," is hereby repealed, and in lieu thereof, be it enacted that,—

When a portion of the Militia of a division to be drawn out, order in which to be taken.

Whenever the Governor or his Deputy shall think fit to draw out a portion only of the Militia of any division of a Militia District, the men to be first taken shall be volunteers from the whole Militiamen, and if a sufficient number do not volunteer, then the first class service men, and if they be not sufficient, then the second class service men, and if they be not sufficient, then the reserve men shall be taken.

If all men of a class be not required, those required to be taken by ballot.

4. If all the men of any class be not required, the men to be drawn out shall be taken by ballot, according to such rules as the Governor shall from time to time make for that purpose.

Substitute may be found.

5. When any man so drawn 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 battalion or company, such person shall be accepted accordingly, and the balloted man for whom such substitute shall be so accepted shall be exempt from service for one year unless the whole of the Militia of that class to which he belongs be drawn out for actual service during such year, and such substitute shall serve as if he had been himself balloted or chosen.

Who liable to serve as Militiamen.

6. Section ten of "*The Militia Act, 1858*," is hereby repealed, and in lieu thereof, be it enacted that,—

Every man except as hereinafter excepted between the ages of sixteen years and fifty-five years, being a British subject and not an aboriginal native, who shall reside within the Colony, shall be liable to serve in the Militia: Provided that the Judges of the Supreme Court, 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, Catechists, and also persons afflicted with lunacy or unsoundness of mind, deafness blindness or with any other disease or infirmity that may render them unfit for service (such disease or infirmity being duly certified by a medical practitioner appointed by the Governor), shall be exempt from serving on such Militia.

Sections 11, 12, 13, and 14 of "*The Militia Act, 1858*," repealed.

7. Sections eleven, twelve, thirteen, and fourteen of the said Militia Act are hereby repealed, and in lieu thereof, be it enacted that,—

Senior commissioned officer of company to enrol men.

The Senior Officer of every battalion or company, or any other commissioned officer appointed by him, shall enrol all the men liable to serve therein, and any man who shall not within three months after his becoming liable to serve give in his name age and place of residence to such officer in order to be enrolled, shall forfeit any sum not exceeding five pounds.

Men removing into division to give notice.

8. Any man liable to serve or actually serving, who may desire to remove without the limits of the division in which he resides, shall have the liberty of so removing provided that he shall within one month

*Militia Act Amendment.*

month thereafter give in his name age and place of residence to the enrolling officer of the division into which he shall have removed, for the purpose of being enrolled therein, and in default of his so doing shall forfeit any sum not exceeding five pounds.

9. If any difference shall arise between the enrolling officer and any man as to his liability to serve or as to the class to which he should belong, it shall be competent for the officer to require him to make a declaration in the matter in dispute before a Magistrate.

If difference as to age, man to prove his age.

10. Section twenty-three of the said Act is hereby repealed, and in lieu thereof be it enacted that,—

Section 23 of "*Militia Act, 1858*," repealed.

During the time that any such Militia shall be on 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.

Mutiny Act and Articles of War in force on actual service.

11. Every commissioned officer, non-commissioned officer, or man, who shall commit any one of the offences following, shall, on being convicted thereof, pay a penalty not exceeding five pounds, viz. :—

Offences while on training and exercise.

(1.) Who, while being trained and exercised, shall refuse or neglect to obey any lawful order of his superior officer.

(2.) Who shall be guilty of any insolent or disorderly behaviour towards such officer when the latter shall be in the execution of his duty.

(3.) Who shall fail to keep any arms or accoutrements intrusted to him in proper order.

12. Provided always that it shall be lawful for the Commanding Officer of the battalion to which any such offender may belong to impose any such fine if such offender shall consent to such officer instead of a Justice of the Peace adjudicating on the offence, and such fine may be enforced in the same manner as a fine imposed by a Justice of the Peace.

Commanding Officer may adjudicate if offender consent.

13. And be it further enacted that every volunteer enrolled under this Act or "*The Militia Act, 1858*," or any regulations made in pursuance thereof, shall, during such time as he shall be liable to serve as such volunteer, be exempt from serving on juries if he shall plead such exemption either in Court or at the time of receiving a summons to attend on a jury.

Volunteers not liable to serve on juries.

14. It shall be lawful for the majority of any company of volunteers from time to time to recommend to the Governor persons to be appointed officers in such company.

Companies of Volunteers may recommend officers.

15. The members of any company of Volunteer Firemen embodied with the approval of the Governor for the purpose, shall be exempted from serving in the Militia.

Volunteer Firemen to be exempt from Militia duty.

16. No Militia District hereafter to be declared shall exceed thirty miles in its greatest diameter.

Militia District limited.

17. Provided always that nothing in this Act contained shall apply to any battalion or company of Militia already enrolled under the said "*Militia Act, 1858*," until the Governor shall by warrant under his hand have declared the same to be applicable, and such warrant shall have been published in a newspaper circulating in the Militia District to which such company belongs.

This Act not to apply to Militia already enrolled until so declared by Governor by warrant under his hand.

18. All fines and penalties imposed by this Act shall be recoverable in a summary way before any Justice of the Peace.

Fines &c. recoverable in a summary way.