



ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1865-6.

No. 18.

An Act to consolidate and amend the Law relating to the Organization and Establishment of a Volunteer Military Force in South Australia.

[Assented to, 16th March, 1866.]

WHEREAS it is expedient to consolidate and amend the law relating to the organization and establishment of a Volunteer Military Force in South Australia—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, by and with the consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows: Preamble.

1. This Act may be cited as "The Volunteer Act, 1865-6." Short title.

2. An Act, No. 2 of 1854, intituled "An Act to organize and establish a Volunteer Military Force in South Australia," "The Volunteer Amendment Act," being No. 17 of 1859, "The Auxiliary Volunteer Act of 1860," and "The Volunteer Amendment Act of 1860" are hereby repealed, save as to any act, matter, or thing done under or by virtue of the said Acts, or any of them, before the passing hereof, and all offences against the said Acts, or either of them, shall be punished in the same manner, as though this Act had not been passed. Repeal.
2 of 1854.
17 of 1859.
7 of 1860.
14 of 1860.

3. The Governor shall, within six months from the passing hereof, by Proclamation in the *Government Gazette*, declare the various Volunteer Companies which may be in existence at the time of the passing hereof, and which have been enrolled under any of the Acts hereby repealed, to be and the same shall thereupon be disbanded: Provided that nothing herein contained shall be deemed to deprive any person who has been a member of such Volunteer Force Volunteer Force now
in existence to be
disbanded.

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Force of any immunity or privilege to which, under any of the repealed Acts, he may be, or, but for this Act, would have been entitled at the time of the passing hereof: Provided that any company of the said force to be disbanded as hereinbefore provided, consisting of not less than sixty men, or any mounted company or troop of such force consisting of not less than eighteen men, may join the Volunteer Force to be raised under this Act, upon signing a fresh roll within three calendar months from the date of the hereinbefore mentioned Proclamation.

Governor may raise a Volunteer Force of not less than 540 men.

4. The Governor may raise, organize, arm, equip, train, and exercise, a Volunteer Military Force to serve within the said Province for the defence of the same, in case of need; and such force shall consist of not less than five hundred and forty men, nor more than one thousand men, exclusive of commissioned officers, and shall be formed into such descriptions of force, in such proportions, and with such organization, as the Governor may, from time to time direct.

Governor may, by proclamation, constitute Volunteer Districts.

5. For the purposes of this Act, and for more efficiently raising such Volunteer Force as aforesaid, the Governor may, by Proclamation in the *Government Gazette*, constitute "Volunteer Districts," and may define the boundaries thereof, and such districts, or the boundaries thereof may, from time to time, abolish, alter, or vary, and by such Proclamation as aforesaid, may appoint the number of Volunteers to be raised for each or any of such districts, and such number may, from time to time, alter or vary.

Governor to appoint persons to enrol Volunteers.

6. The Governor shall appoint one or more persons to raise and enrol such Volunteers as aforesaid, and may define the districts, or parts of districts, within which such persons shall act; and such persons shall, immediately after their appointment, proceed to enrol so many able-bodied men as shall present themselves for that purpose and be approved of by the enrolling officer, and who shall be resident within the district in which such men are directed to be raised, or in any district immediately adjacent thereto, to serve in such Volunteer Force.

Reserve Force not exceeding 1,000 men to be raised.

7. In addition to the Volunteer Force hereinbefore authorized to be raised, the Governor may raise, organize, arm, equip, and exercise a force to be called "The Reserve Force," which shall consist of not more than one thousand men.

Members of Reserve Force to have served three years in Volunteers.

8. No person shall be allowed to enrol as a member of the Reserve Force unless he shall have served for a period of at least three years in the Volunteer Force, to be raised by virtue of this Act, or in the Volunteer Force constituted under the said Acts hereby repealed, or any of them or partly in one of such Forces and partly in the other of such Forces, so that in each case the time of service in the said forces shall together have amounted to the full period of three years: Provided that in the case, where a volunteer shall have served three years under the said repealed Acts, such volunteer shall

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shall join such Reserve Force within a period of three calendar months from the date of the hereinbefore mentioned Proclamation, and shall have obtained a certificate from the officer commanding the force, setting forth that he has, during his term of service, sufficiently observed the regulations to entitle him to join such Reserve Force: Provided also, that any volunteer who may be entitled to join the Reserve Force may join the Volunteer Force and enjoy all the privileges to which he would have been entitled had he joined the Reserve Force, including the wearing of the distinguishing badge hereinafter mentioned.

9. The Governor shall appoint some appropriate distinguishing badge to be worn by the members of the Reserve Force, and every member of such force shall, upon being enrolled therein, be entitled to have and wear such distinguishing badge.

Members of Reserve Force to be entitled to wear distinguishing badge.

10. No company or troop of the Volunteer Force, to be raised under this Act, shall consist of less than sixty men, except in the case of a mounted company or troop, which shall consist of not less than eighteen men exclusive of commissioned officers.

Companies to consist of not less than sixty men; mounted troop, eighteen men.

11. The Governor shall appoint to every regiment, corps, company, and troop of such Reserve Force, and Volunteer Force such and so many officers, and such staff-officers and non-commissioned officers as he may deem necessary for the efficiency of the service, and may, from time to time, remove such officers, and non-commissioned officers, and appoint others in their stead: Provided that, until removed by the Governor under the power herein contained, the captain or lieutenant, and ensign or cornet, of any company or troop enrolled under any of the Acts hereby repealed, and which shall join the Volunteer Force to be raised under this Act, as provided in section 3, shall continue to be the captain, lieutenant, and ensign, or cornet respectively of such company or troop.

Governor may appoint Officers.

12. All persons duly enrolled in such Reserve Force or Volunteer Force as aforesaid shall, during their continuance in the said forces, or either of them, be exempt from all other military or militia service, their houses, and horses, and carriages shall be exempt from impressment for any military service under any Act of the Governor and Council of the said Province; and all persons who shall have completed the full term of three years' service in such Reserve Force (if otherwise not exempt), shall be exempt from service in any other force until the expiration of three years from the date of their discharge from such force.

Exemptions of Volunteers.

13. All officers of the Reserve Force and Volunteer Force appointed under the authority hereof, shall take precedence among themselves according to the rules which obtain in that behalf in the regular troops of Her Majesty; and officers of both forces shall rank as juniors of their respective ranks with officers in the regular forces of Her Majesty, and as seniors of their respective ranks with officers of any Militia raised in the said Province: Provided that all field officers of Her Majesty's regular forces shall command all field officers of the Reserve Force or Volunteer Force.

Officers of Reserve Force, and Volunteers, how to rank.

14. Every

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Volunteers to sign an engagement for three years.

14. Every person upon enrolling himself as a member of the Volunteer Force shall sign an engagement to serve in such force for the period of three years, and during such period shall, whilst disembodied, be subject to all such rules and regulations for the maintenance of discipline in the said force as may be made and published under the authority hereof: Provided that any member of the Volunteer Force, with the written consent of the officer commanding the force for the time being, shall be entitled to be transferred from such company to some other company to be consented to by such officer commanding.

Governor may accept resignation.

15. The Governor may accept the resignation of any member of the Reserve Force at any time, and may also accept the resignation of any member of the Volunteer Force, during the period of his engagement.

Volunteer not liable to punishment by reason of absence from the Colony.

16. No member of the Reserve Force or Volunteer Force shall be liable to any punishment for breach of engagement by absence from duty, if such absence from duty shall be occasioned by his absence from the Colony, and such member shall have given notice, in writing, to the captain of his troop or company of such intended absence, and shall have delivered up to the captain of his troop or company his arms, accoutrements, and clothing, previous to his departure, and if any member of the Force shall be absent from the said Province for more than six calendar months his name shall be removed from the roll.

Clothing, arms, and accoutrements.

17. The clothing, arms, and accoutrements of such Reserve Force and Volunteer Force shall be of a description and pattern which shall be approved by the Governor, and shall be furnished to each member by and at the cost of the Government, and such arms and accoutrements shall be and remain the property of the Government, and, as to such arms and accoutrements as may be issued to the said Volunteer Force, shall be produced, exhibited, and given up by the person to whom the same may be issued to any person authorized by the Governor to inspect or receive the same; and any clothing so issued shall be and remain the property of the Government during such period as the Governor may fix, at the expiration of which period it shall become the property of the person to whom it shall have been issued.

Mounted volunteers to provide horses.

18. Every member of the Reserve Force or Volunteer Force who shall be enrolled in any troop of mounted riflemen or other mounted troop, shall provide a suitable horse, to the satisfaction of the commanding officer of the regiment or corps, and shall be entitled to receive forage for such horse, or an allowance in lieu thereof, for any period during which he shall be called out for the purpose of training or otherwise.

Governor may call out volunteers for training and exercise.

19. The Governor may call out the said Volunteer Force, either in whole or in part, for the purpose of exercising and training, at such

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such times and places as he may think fit: Provided that no part of such Force, except the Artillery shall, for the purposes last aforesaid, be called out for a greater number of days than thirty-six, in any one year, or shall be required to leave the district within which they are raised for a greater number of days than six in any one year; and provided that the Artillery shall not be called out for the purposes aforesaid for a greater number than forty-eight days in any one year, such days to be in addition to those required for recruit drill; but nothing in this Act contained shall prevent the Governor from calling out the officers of the said Volunteer Force and Reserve Force so often as he shall think fit for the purpose of special drill.

20. The Governor may call out the Reserve Force, either in whole or in part, for the purpose of exercise and training, at such times and places as he may think fit: Provided that such Reserve Force, except in the case of officers called out for special drill, shall not be called out for the purposes aforesaid a greater number of times than twelve nor less than four times in any one year.

Reserve Force may be called out for training and exercise.

21. The rates of pay of the several officers, non-commissioned officers, drummers, and private men of the Volunteer Force and Reserve Force, while employed in exercise or training, shall be according to the rates in the Schedule following: Provided that the Governor may reduce such rates by any regulation to be made, as hereinafter mentioned, with reference to members of the said Volunteer Force or Reserve Force while undergoing recruit drill:

Rates of pay for Officers and men.

Rates of daily Pay of the undermentioned Persons.

	£	s.	d.
Lieutenant-Colonel.....	0	15	0
Major	0	12	6
Captain.....	0	10	0
Lieutenant	0	9	0
Ensign or Second Lieutenant	0	8	6
Paymaster	0	10	0
Adjutant (including his pay as Lieutenant or Ensign)	0	9	6
Quartermaster.....	0	8	6
Surgeon	0	10	0
Sergeant-Major	0	8	0
Sergeant	0	7	6
Drum-Major	0	7	0
Corporal	0	6	6
Private.....	0	5	0
Drummer.....	0	5	0

Together with an additional sum of four shillings for marching money for each day in which he shall be required to leave the district in which he is enrolled; and a further sum of six shillings for every such day to such members of the said Volunteer Force or Reserve Force as may be required, or be entitled to keep a horse for his use as a member of such Volunteer Force or Reserve Force: Provided that for the purposes hereof not less than five hours shall be considered a day and not less than two hours half a day: Provided also that nothing in this Act shall authorize the payment of any sum of money except out of such sums as shall have been first appropriated by Parliament for the purposes of this Act.

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Members of Volunteer Force and Reserve Force to be paid quarterly.

Fines may be deducted.

22. The members of the said Volunteer Force and Reserve Force shall be paid quarterly any sums of money to which they may be entitled under this Act: Provided that any fines which may have been imposed on any member, and which shall remain unpaid, shall be deducted from such sum.

Members of Parliament not to receive pay for personal services, unless elected after enrolment in Volunteer Force and Reserve Force.

23. No member of either House of Parliament shall receive any payment in respect of his personal services as a member or officer of the Volunteer Force and Reserve Force, unless such member shall have been elected to his seat in Parliament after his enrolment as a member or appointment as an officer of the said Volunteer and Reserve Force.

In case of invasion, Volunteers may be called out for actual service.

24. The Governor, in the event of the invasion of any part of the said Province by any hostile force, or if there shall appear to be imminent danger thereof, may embody and call out the whole or any part of the said Reserve Force and Volunteer Force for actual service, and may direct the same to be marched to any part of the said Province, under such officers as he may appoint, and keep the same embodied for such period as he may deem requisite, or at his discretion may disembody them; and such Reserve Force and Volunteer Force, during the time that they shall be so embodied for actual service, shall be subject to the Mutiny Act and to the Articles of War made in pursuance thereof: Provided that no punishment be awarded against any member of the Reserve Force or Volunteer Force by any Court Martial, under authority of the said Act or Articles, shall extend to loss of life or limb, or to corporal punishment by flogging; but, in the stead thereof, any such Court Martial may award imprisonment, with or without hard labor, for any period not exceeding six calendar months; and in respect of offences to which the punishment of death is annexed, may award imprisonment with hard labor for the period of seven years: Provided that the Governor may remit any punishment to be so awarded either in whole or in part.

No party to forfeit any benefit or interest by reason of his enrolment.

25. No person who may be enrolled as a member of the Reserve Force, or the Volunteer Force, under the authority hereof, shall, by reason of such enrolment, or of any duty, liability, matter, or thing, consequent thereupon, lose, forfeit, or be deprived of any right, claim, benefit, share, or interest to which he may be, at the time of such enrolment, or to which, but for such enrolment, he would have been entitled.

Oath of Volunteers.

26. Every member of the Reserve Force and Volunteer Force, who may be enrolled under the authority hereof, shall, at the time of enrolment, take the following oath, to be administered by the enrolling officer or by any Justice of the Peace for the said Province:—

“I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty, Her heirs and successors, and that I will faithfully serve in the Volunteer Force [or in the Reserve Force, as the case may be], within
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the Province of South Australia, for the defence of the same, during the time for which I am enrolled, unless I shall be sooner discharged.

27. In addition to any special sum or sums of money that may from time to time be voted by Parliament for such purposes, there shall be set apart every year out of the Ordinary General Revenue of the said Province a sum of money sufficient at least to provide the following prizes, for the encouragement of efficiency in the use of the rifle or other regulation arm supplied to the members of the said Reserved Force and Volunteer Force—that is to say, the sum of Ten Pounds for the best marksman of each company in the said Reserve Force and Volunteer Force; and the further sum of One Hundred and Five Pounds, to be divided into prizes of Fifty Pounds, Thirty Pounds, and Twenty-five Pounds, to be competed for by the winners of the company prizes for the year, and not more than three other men from each company of the said Reserve Force and Volunteer Force, who, in the competition for the company prize, shall have made the next highest scores: Provided that no member of the Reserve Force or Volunteer Force shall be allowed to compete for the company prize, who has not been a regular attendant at drill, and has not complied with the regulations affecting his company, to be made under the provisions hereof.

Certain moneys to be set apart for prizes.

28. The captain or officer commanding each company shall, on request, deliver to the winner of the company prize, and to the men making the next highest scores as mentioned in the last section, a certificate thereof, which certificate shall be sufficient to entitle the holder thereof to compete for the champion prize.

Captain of Company to give certificate to entitle men to shoot for champion prize.

29. The Governor may from time to time make, repeal, alter, or vary such general rules and regulations as he may deem expedient for the maintenance, discipline, training, and ensuring the regular attendance at drill and exercise of the said Reserve Force and Volunteer Force, and for ensuring the regular attendance of the forces at special drill, and generally for giving full effect to this Act; and also special rules and regulations for each company of such Reserve Force or Volunteer Force, for the purpose of prescribing and defining such matters as may be considered desirable for the good and efficient government of each particular company, and which it may be impossible or inexpedient to embody in such general rules and regulations to be made as aforesaid for the whole of the said Reserve Force and Volunteer Force; and by such rules and regulations, whether general or special, may define offences and fix the punishment thereof by fine or imprisonment; but so that no fine shall exceed Ten Pounds, except for breach of engagement by absence from duty when called out, the fine for which shall not exceed Fifty Pounds; and no period of imprisonment shall exceed the term of forty-two days: And such rules and regulations, or any alterations thereof, being published in the *Government Gazette* shall, while unrepealed, have the same force and effect as if the same had been embodied

Governor may make general rules and regulations.

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embodied in this Act, and shall be in force at all times whether the said Reserve Force or Volunteer Force shall be on parade under arms or otherwise; and any penalties imposed by such regulation may be enforced as hereinafter mentioned.

Officer in command may summarily order imprisonment for one day, or fine of two days' pay.

30. Any commissioned officer for the time being in command of any body of men of the said Reserve Force or Volunteer Force may summarily order any member of such body to be imprisoned in any guard-house to be appointed for such purpose by the Governor for any period not exceeding one day, or may inflict a fine upon any such member not exceeding two days' pay; and such officer may order any person committing a breach of the general rules and regulations hereinbefore mentioned to be arrested and kept in custody until he shall be brought before a Special Magistrate or two Justices to answer for such breach, which shall be within three days from the day of arrest.

Officer may give member of force into custody for breach of general regulations.

Until rules made under this Act, rules contained in *Government Gazette* of 22nd October, 1863, to be in force.

31. Until the Governor shall make and publish general rules and regulations under the powers herein contained, the rules and regulations contained in and proclaimed by the *Government Gazette* of the twenty-second day of October, 1863, shall be and continue in force, and shall apply to the Volunteer Force to be enrolled under this Act; and shall have the same force and effect, and may be enforced in all respects, as if the same had been duly made and published under this Act.

Penalties may be recovered before Special Magistrate or two Justices.

32. Proceedings for enforcing any penalties imposed by this Act, or by any rules or regulations to be made under the powers in that behalf hereinbefore contained, or by the said rules and regulations contained in and proclaimed by the said *Government Gazette* of the said twenty-second October, 1863, whether pecuniary or otherwise, may be had before, and shall be heard and determined in a summary way by any Special Magistrate or two Justices, under the provisions of an Ordinance of the Governor and Legislative Council, No. 6 of 1850, "To facilitate the performance of the duties of Justices of the Peace out of Session, with respect to summary convictions and orders," or of any Act hereafter to be in force relating to the duties of Justices of the Peace with respect to summary convictions and orders; and all convictions and orders may be enforced as in the said Ordinance is mentioned.

Appeal on conviction.

33. There shall be an appeal from any conviction by any Special Magistrate or Justices for any offence against this Act, or from any order dismissing any information or complaint, or from any order for payment of costs or otherwise, which appeal shall be to the Local Court of Adelaide of Full Jurisdiction only; and the proceedings on such appeal shall be conducted in manner appointed by the said Ordinance No. 6 of 1850, for appeals to Local Courts; but the Local Court of Adelaide aforesaid may make such order as to payment of the costs of appeal as it shall think fit, although such costs may exceed Ten Pounds

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34. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be commenced within three calendar months after the act was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and the defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial; and the plaintiff shall not recover in such action, if tender of sufficient amends shall be made before action brought; or if, after action brought, the defendant shall pay into Court sufficient amends; but, in such last-named case the plaintiff shall recover his costs of suit up to the time of payment into Court; and if a verdict shall pass for the defendant, or the plaintiff become nonsuit or discontinue, the defendant shall recover full costs as between attorney and client, and have his remedy for the same in the usual way. Protection to officers.

35. This Act shall come into operation six calendar months from the passing hereof, or on a day to be fixed by the Governor by proclamation in the *Government Gazette*, which shall first happen. Commencement of Act.

In the name and on behalf of the Queen I hereby assent to
this Act.

D. DALY, Governor.