

The Defence Forces Act, 1894

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ

The Defence Forces Act, 1894

(58 Vic., No. 2)

ARRANGEMENT OF SECTIONS

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| <ol style="list-style-type: none"> 1. Short title and Divisions. 2. Repeal 47 Vic. 7; 49 Vic. 12; 56 Vic. 18. 3. Interpretation. <ul style="list-style-type: none"> Governor. Minister. Commandant. Commanding officer. Officer. Forces. Permanent Force. Regular. Militia. Militiamen. Volunteer Force. Volunteer. Corps. Army Act. Regulations. Prescribed. District or Sub-District. | <ol style="list-style-type: none"> 16. Governor may make regulations. Punishment, dismissal. 17. Existing regulations to remain in force until new regulations made under this Act. 18. The Governor may proclaim military districts and sub-districts. 19. Corps to be formed by voluntary enlistment. 20. (1) Forces may be called out for actual service. <ul style="list-style-type: none"> (2) Assembly. (3) Application of Laws &c. (4) Where required to serve. (5) Governor may order Forces to serve under certain Commanders. 21. Remuneration when called out. 22. Penalties for refusing or neglecting to obey the call for actual service. 23. Members of Defence Force may volunteer for foreign service. 24. Command and discipline of any of the Forces serving out of the Colony. 25. Provision for families of men killed on actual service. 26. Privileges of the Forces. 27. Courts-martial and Courts of Inquiry. 28. (1) Composition and powers of Courts-martial and Courts of Inquiry. <ul style="list-style-type: none"> (2) Witnesses may be summoned. (3) Offences by witnesses. 29. Civil affairs. 30. Licenses of land for rifle and artillery ranges and drill. 31. Provision for ceaser of license. 32. Governor may make regulations stopping traffic, and for the safety of the public during rifle or artillery practice or drill. |
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PART I

GENERAL PROVISIONS

4. Governor to be Commander-in-Chief.
5. Commandant to command the Forces.
6. Defence Force.
7. Governor to regulate strength of each Regiment, &c.
8. Corps, where established.
9. Precedence of Forces.
10. Appointment of officers and non-commissioned officers.
11. Rank and precedence of officers and non-commissioned officers.
12. Medical Department.
13. Retirement of officers.
14. Officers on the retired list.
15. Officers on the unattached list.

The Defence Forces Act, 1894

PART II

PERMANENT FORCE AND MILITIA FORCE

33. (1) The Governor may raise a Permanent Force and a Militia Force.
- (2) Period of engagement.
34. Age for enlistment.
35. Governor may appoint enrolling officers.
36. Every person engaging to serve in the permanent Force or Militia must take an oath.
37. Oath of allegiance.
38. Payment, clothing, and equipment.
39. Drill exercise and training of Militia.
40. Discipline, measures for.
41. Governor may make regulations for inflicting fines.
42. Privileged leave of absence for Militiamen.
43. Period of engagement ending during 'actual service.'
44. Continuation in service beyond period.

PART III

VOLUNTEER FORCE

45. Constitution of Force.
46. Existing Volunteer Corps to continue.
47. Precedence.
48. Organisation.
49. Term of service.
50. Formation of Corps.
51. Muster-roll.
52. Enrolment.
- Oath of allegiance.
53. Membership.
54. Correction of Muster-roll.
55. Commandant may grant a certificate of membership.
56. (1) Expulsion from Force.
- (2) Appeal.
57. Expelled Volunteer not to be re-enrolled.
58. Disbandment of Volunteer Force or Corps.
59. Commanding officer to deposit arms, &c., as appointed by Governor.

60. Disposal of corps funds on disbandment.
61. (1) Cesser of membership.
- (2) Cases in which members may be struck off.
62. Uniform, rifle, ammunition, and Corps property.
63. Surrender of arms and ammunition.
64. Government property may be lent to Corps subject to regulations.
65. Standard of efficiency.
66. Offences dealt with by regulation.
67. Commandant to determine and superintend details.
- To grant leave.
68. Commanding Officer may place under arrest while Corps is under arms, &c.
69. Rules and property of Corps.
70. Subscriptions and fines how recoverable.
71. Penalty for destroying, selling, pawning, or damaging articles issued to Volunteers.
72. Bounty on release.

PART IV

OFFENCES AND MISCELLANEOUS

73. Offences by persons not belonging to the Forces.
74. (1) Unlawfully disposing of arms, &c.
- (2) Person charged and suspected of leaving Colony with arms, &c., may be arrested.
75. Subscription, arms, &c., vested in Commanding Officer.
76. Offences connected with desertion.
77. Penalty for contravening this Act or the regulations when no other penalty.
78. Exemptions.
79. Recovery and appropriation of penalties.
80. Prosecution.
81. *No Certiorari.*
- Conviction not to be quashed for want of form.
82. Penalty for damaging or disturbing butts.
83. The Governor can disband any Corps.

The Defence Forces Act, 1894

No. 2

An Act to amend and consolidate the laws respecting the Defence Forces and Military requirements of the Colony of Western Australia.

[Assented to 10th October, 1894.]

Preamble	B E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in Parliament assembled, and by the authority of the same, as follows:—
Short title and divisions	1. This Act may for all purposes be cited as 'The Defence Forces Act, 1894,' and is divided into parts, as follows:— PART I.—GENERAL PROVISIONS, SS. 4–32. PART II.—PERMANENT FORCE AND MILITIA FORCE, SS. 33–44. PART III.—VOLUNTEER FORCE, SS. 45–72. PART IV.—OFFENCES AND MISCELLANEOUS, SS. 73–83.
Repeal 47 Vic., 7 49 Vic., 12 56 Vic., 13	2. 'The Volunteer Force Regulation Act of 1883,' 'The Volunteer Foreign Service Act of 1885,' and 'The Defence Forces Act, 1893' (hereinafter termed 'the said repealed Acts') are hereby respectively repealed: Provided that such repeal shall not affect any appointment or promotion lawfully made, or any rule, regulation, warrant, order, conveyance, or document made or issued, or any notice published under the said repealed Acts before the commencement of this Act.
Interpretation	3. In the interpretation of this Act the following terms shall, unless the context otherwise requires, have the several meanings set against them respectively, that is to say:
Governor	'Governor.'—The Governor or officer for the time being administering the Government of Western Australia, acting with the advice of the Executive Council:
Minister	'Minister.'—The responsible Minister for the time being administering this Act:
Commandant	'Commandant.'—The commissioned officer in chief command for the time being of the forces of Western Australia:
Commanding Officer Officer	'Commanding Officer.'—The officer commanding a corps: 'Officer.'—A person holding a commission or warrant in the Forces:
Forces	'Forces.'—The Defence Forces authorised by this Act:
Permanent Force	'Permanent Force.'—The Permanent Force authorised by this Act:
Regular	'Regular.'—A member of the Permanent Force:
Militia	'Militia.'—The Militia Force authorised by this Act:
Militiaman	'Militiaman.'—A member of the Militia Force:
Volunteer Force	'Volunteer Force.'—The Volunteer Force authorised by this Act:
Volunteer	'Volunteer.'—A member of the Volunteer Force:

The Defence Forces Act, 1894

- ‘Corps.’—Any battery of artillery, troop of cavalry, or company of infantry or mounted infantry, or any company of cadets of the forces, but so that where two or more troops of cavalry, companies of mounted infantry or of infantry, are formed into a squadron, battalion, or regiment, such squadron, battalion, or regiment may be termed a corps : Corps
- ‘Army Act.’—The Act of the Imperial Parliament, called ‘The Army Act,’ or any Act or Acts that shall for the time being be in force in the United Kingdom, amending or in substitution of the same, including the articles of war made and for the time being in force thereunder : Army Act
- ‘Regulations.’—Any regulations which shall be made by the Governor in pursuance of this Act : Regulations
- ‘Prescribed.’—Prescribed by this Act, or by regulations made under this Act : Prescribed
- ‘District’ or ‘Sub-District.’—The locality prescribed as a district or sub-district by this Act or by any regulations made under this Act. District or Sub-district

PART I

GENERAL PROVISIONS

4. The Governor, as Her Majesty’s Representative, shall be Commander-in-Chief of the Forces. The Governor to be Commander-in-Chief
5. The Commandant shall, subject to regulations, command the Forces. Commandant to command the Forces
6. There shall be a Defence Force in Western Australia, which shall consist of— Defence Force
- (a) A Permanent Force ;
- (b) A Militia Force ;
- (c) A Volunteer Force ;
- and such Force may be constituted of such Arms of the Service as the Governor shall appoint.
7. Subject to the provisions of this Act the strength of each regiment, troop, battery, battalion, company, or corps shall be regulated from time to time by the Governor. Governor to regulate strength of each regiment, &c.
8. Every corps shall be established in and for some place to be appointed by the Governor. Corps, where established
9. The various divisions of the Defence Force shall rank and take precedence as follows :— Precedence of Forces
- (i) The Permanent Force ;
- (ii) The Militia Force ;
- (iii) The Volunteer Force ;
- and the different Arms of these Forces shall rank amongst themselves in the same order as obtains in Her Majesty’s Regular Forces.

The Defence Forces Act, 1894

Appointment of
officers and non-
commissioned
officers

10. (1) The Governor may appoint to the Forces such staff officers and staff non-commissioned officers as he may deem necessary, and may also appoint by commission under his hand in these Forces, or in any corps of these Forces, such and so many officers, subject to regulations, as he may deem necessary, and he may withdraw, annul, alter or amend any such appointments or commissions.

(2) The Commandant may, on behalf of the Governor, appoint, or may delegate power to appoint, all warrant officers and superior non-commissioned officers (including sergeants) in the Forces.

(3) The commanding officer of any corps may, subject to regulations, appoint to his corps all non-commissioned officers not included in the last preceding paragraph of this section.

(4) The commissions or appointments of all officers and non-commissioned officers are held at pleasure, and the proper authority may from time to time remove any officer or non-commissioned officer and appoint another in his stead.

Rank and pre-
cedence of officers
and non-commissioned
officers

11. (1) Officers and non-commissioned officers of the Forces shall have relative rank and take precedence amongst themselves in their respective Forces according to the rules which obtain in that behalf in the Regular Forces of Her Majesty.

(2) Officers and non-commissioned officers of the Volunteer Force shall be junior to officers and non-commissioned officers of the Permanent Force and Militia of the same rank, whatever be the dates of their respective commissions or appointments.

Medical Depart-
ment

12. (1) There shall be a Medical Department of the Forces, and all medical officers commissioned as such in the Forces shall belong to the staff of this department, and, subject to regulations, shall be under orders of the principal medical officer for the time being of the Forces.

(2) Such medical officers, though belonging to one medical department, shall rank according to the position and precedence by this Act given to the respective force to which they may be respectively commissioned, and according to the position and precedence by this Act given to the officers of the respective Forces.

(3) Such medical officers may be attached to any particular corps, portion or assemblage of corps of the respective Forces to which they belong, but they may be transferred, subject to regulations, by the Commandant or principal medical officer aforesaid for duty, when necessary, to and with any branch of the Forces retaining however the rank and position they occupy in the forces to which they are commissioned.

Retirement of
officers

13. The retirement of officers from serving in the Forces shall be subject at all times to the approval of the Governor and shall be governed by the rules prescribed by the regulations, but no officer shall have the right to retire from service or resign his commission in order to avoid or escape from trial by court-martial.

Officers on the
retired list

14. Officers holding commissions in the Forces may be placed on the retired list, with honorary rank not exceeding that of lieutenant-colonel, or without honorary rank, as prescribed by the regulations, and the Governor may appoint officers on the retired list to com-

The Defence Forces Act, 1894

missions in the active Force; but no officer on the retired list shall be bound to serve in the Defence Force in a lower grade than that of his retired rank.

15. The Governor may place officers of the Forces on an unattached list, and may nominate fit and proper persons to commissions on the unattached list, and officers on such list may be employed for duty with any corps or on the staff.

Officers on the unattached list

16. (1) The Governor may from time to time make, alter or revoke regulations not inconsistent with this Act, for carrying into effect and for enforcing the provisions thereof, and for the enrolment, promotion, employment, transfer, training, discipline, equipment, payment, and better government of the Forces, or of any portion or individual thereof, or for the punishment, dismissal, or discharge, or disbandment of the same, or of any portion or individual thereof.

Governor may make regulations

Punishment, dismissal

(2) Such regulations shall be published in the 'Government Gazette,' and afterwards shall be judicially noticed, and have the force of law, and a copy of the 'Government Gazette' purporting to contain a copy of any such regulations shall be conclusive evidence thereof: Provided that all such regulations shall be laid before both Houses of Parliament within fourteen days of the making thereof if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days after the commencement of the next sitting of Parliament.

(3) Such regulations shall be in force at all times, whether the said Forces shall be on parade, under arms, or otherwise.

17. Until the Governor shall make and publish regulations under the powers herein contained, all rules and regulations made, and which are in force at the time of the passing of this Act, under the provisions of the said repealed Acts, with respect to any of the Forces thereby authorised, shall (except as far as they are inconsistent with this Act) be and continue in force, and shall apply to the corresponding and similar Force under this Act, and shall have the same force and effect, and may, except as aforesaid, be enforced in all respects as if the same had been duly made and published under this Act.

Existing regulations to remain in force until new regulations made under this Act

18. For the purposes of this Act, and for more efficiently raising such forces aforesaid, the Governor may by proclamation constitute 'Military Districts' and 'Military Sub-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 aforesaid may, subject to the provisions of this Act, appoint the number of permanent soldiers and militiamen to be raised for each or any of such districts, and such number may from time to time alter or vary.

The Governor may proclaim military districts and sub-districts

19. Corps shall be raised and maintained at the prescribed strength by voluntary enlistment only.

Corps to be formed by voluntary enlistment

20. (1) The Governor may, by proclamation or by the making of such signals of alarm as are provided in the regulations to be made, call out the Forces, or any portion of the Forces, for actual service in case of invasion or attack on the Colony or its dependencies, or of

Forces may be called out for actual service

The Defence Forces Act, 1894

rebellion or insurrection therein, or of danger of such invasion, attack, rebellion, or insurrection, or in aid of the civil power.

Assembly

(2) Any such proclamation being published, or general signal made, every member of the corps called out shall assemble in obedience thereto at such time and place as may be directed, with any arms, equipment, accoutrements, and ammunition in his possession, and with such provisions as his commanding officer may direct, and shall be deemed embodied and shall be subject to the Army Act and all other laws and regulations applicable to the Permanent Force as if he were a member of such Force until the Governor by proclamation shall signify that the service of such corps is no longer required.

Application of laws, &c.

(3) The regulations may prescribe that any portion of the above-mentioned Army Act, or of the laws or regulations, shall not apply to the Forces or portion of the Forces so called out.

Where required to serve

(4) No militiaman shall be required to serve out of Australasia, and no volunteer shall be ordered for service outside the Colony.

Governor may order Forces to serve under certain commanders

(5) Whenever the Forces or any portion thereof are called out for actual service the Governor may place them under the orders of the commander of Her Majesty's regular Land Forces in this Colony or in any other place where the Forces or portions thereof may be required to serve, or under the orders of any other officer then in command of the Land Forces of any other of the Australasian Colonies.

Remuneration when called out

21. Members of the Militia and Volunteer Forces, when called out for actual service as aforesaid, shall, for the day on which they assemble pursuant to such call, and until their services are no longer required, be entitled to the remuneration in their usual ranks as laid down in the regulations for pay; and also shall be provided with accommodation in quarters or camp, and shall further receive daily rations and camp or field allowances as may be prescribed.

Penalties for refusing or neglecting to obey the call for actual service

22. If any member of the Militia or Volunteer Forces shall refuse or neglect to obey any call for actual service pursuant to this Act, not being prevented by infirmity disabling him from active service, or by absence from the Colony, the proof whereof shall lie on him, he shall be liable, if a Militiaman, to be proceeded against under the Army Act as a deserter, and if convicted shall be punished accordingly; and, if a Volunteer, shall be liable on summary conviction to pay a penalty of not less than Twenty pounds nor more than One hundred pounds, or to be imprisoned for a term not exceeding twelve calendar months.

Members of Defence Force may volunteer for foreign service

23. (1) Nothing contained in this Act shall prevent any member of the Defence Force from volunteering to serve in any Force that may be raised by this Colony of Western Australia, in the event of the Empire of Great Britain being at war at any time, to augment any of Her Majesty's Regular or other Forces, or to occupy and defend any place beyond the limits of Australasia.

(2) The names of members volunteering shall be submitted to the Governor by the Commandant, for his approval or otherwise.

The Defence Forces Act, 1894

24. Whenever the Forces or any portion thereof or any officers, non-commissioned officers, or men belonging thereto shall be serving with any of Her Majesty's Regular Forces without the limits of the Colony, the Governor may place them under the orders of any Commander of Her Majesty's Regular Land Forces, and the Army Act shall apply to such officers, non-commissioned officers, and men in as full and ample a manner as such Army Act shall apply to the officers, non-commissioned officers, and men of Her Majesty's Regular Forces with whom such first-mentioned Force, officers, non-commissioned officers or men may be serving.

Command and discipline of any of the Forces serving out of the Colony

25. When any officer, non-commissioned officer, or man is killed or wounded on actual service, or dies from wounds or disease contracted on actual service, provision shall be made out of the public funds in accordance with the regulations, for such wounded person by way of pension or gratuity, and for the widow and family of every person so killed.

Provision for families of men killed on actual service

26. All persons duly commissioned or enrolled in the Militia, and officers and efficient members of the Volunteer Force while serving in that force, shall be exempt from other military service, and from serving as district constables, and further, the houses, horses, and carriages of such persons shall be exempt from impression for any military service under any Act of the Parliament of the said Colony.

Privileges of the Forces

27. The Governor may convene Courts-martial, or delegate power to convene such Courts, and appoint, or delegate power to appoint, officers to constitute the same, for the purpose of trying any officer or man in the Forces for any offence under the 'Army Act,' this Act, or the regulations, and may delegate also power to approve, confirm, mitigate, or remit any sentence of any such Court. The Commandant may convene Boards or Courts of Inquiry, and appoint officers of the Defence Force to constitute such Courts, for the purpose of investigating and reporting on any matter connected with the government or discipline of the Forces, or with the conduct of any officer or man of the Forces.

Courts-martial and Courts of Inquiry

28. (1) The regulations for the composition of Courts-martial and Courts of Inquiry, and the modes of procedure and powers thereof, shall be the same as the regulations which are for the time being in force relating to the composition, modes of procedure, and powers of Courts-martial and Courts of Inquiry for Her Majesty's Regular Forces, as the case may be, and which are not inconsistent with this Act; and the pay and allowances of officers and others attending such Courts may be fixed by the regulations.

Composition and powers of Courts-martial and Courts of Inquiry

(2) Every person required to give evidence before a Court-martial or Court of Inquiry may be summoned or ordered to attend.

Witnesses may be summoned

(3) If any person who is not a member of the Defence Force is summoned as a witness before a Court-martial, and after payment or tender of the reasonable expenses of his attendance makes default in attending, or being in attendance as a witness—

Offences by witnesses

(a) Refuses to take an oath or affirmation which he is lawfully required by a Court-martial to take; or

The Defence Forces Act, 1894

- (b) Refuses to produce any document in his power or control, which he is lawfully required by a Court-martial to produce; or
- (c) Refuses to answer any question to which a Court-martial may lawfully require an answer; or
- (d) Is guilty of any contempt towards the Court-martial by causing any interruption or disturbance in its proceedings;

the president of the Court-martial may certify the offence of such person under his hand to a Judge of any Court of Law or Police or Resident Magistrate in the locality having power to punish persons guilty of like offences in his Court, and such Court or Magistrate may thereupon inquire into the alleged offence, and if the person accused is found guilty, punish him in like manner as if he had committed such offence in a proceeding in such Court.

Civil affairs 29. The management of the civil affairs of every corps of the Forces shall be subject to regulations.

Licenses of land for rifle and artillery ranges and drill 30. For the purposes of rifle or artillery practice or for drill, a license to use any lands hereinafter mentioned may, with the consent of the Governor, be granted to any corps of the Forces as follows:—

- (1) In the case of Crown Lands, by the Commissioner of Crown Lands for the time being:
- (2) In the case of lands vested in or under the care, control or management of any Municipal Corporation, Road or Commonage Board by such Corporation or Board.

Provided that—

- (a) No license shall be granted for a longer period than seven years, but any license, when granted, may be renewed by the same authority that has power to grant the same:
- (b) In the event of any land to which such license relates ceasing to be used for the purposes of this Act, the license shall thereupon absolutely cease.

Provision for cesser of license 31. Any land in respect of which a license shall have been granted under this Act shall be deemed to have ceased to be used for the purposes of this Act when there has not been any such user by the corps to or for which the license was granted for a period of one year, and a certificate of the fact of such non-user has been given by the Commandant, and such certificate shall be conclusive evidence of such fact as against all persons and in all Courts of Justice.

Governor may make regulations stopping traffic and for the safety of the public during rifle or artillery practice or drill 32. The Governor may, by regulations, direct to be stopped, at such times and for such periods as may be necessary during any rifle or artillery practice or drill, the traffic on such roads or foot-paths as he may deem necessary, and may make regulations for conducting such practice and registering the results thereof, and for preventing any persons other than those engaged in such practice or drill from going on the lands for which such licenses may be granted, or in the vicinity thereof, and for the safety of the public, and may

The Defence Forces Act, 1894

impose penalties for any breach of any of such regulations, and for any wilful damage to any butts, targets, or appliances on any such lands.

PART II

PERMANENT FORCE AND MILITIA FORCE

33. (1) The Governor may raise, maintain, organise, arm, equip, drill, train, and exercise such Permanent Force and Militia Force as may be considered necessary for the time being for the proper defence of the Colony, and as Parliament shall from time to time provide for.

The Governor may raise a Permanent Force and a Militia Force

(2) The period of engagement in the Permanent and Militia Forces shall be for three years continuous service in the case of men, and seven years in the case of boys, but nothing contained in this section shall prevent any man from prolonging his service for the periods which may be fixed from time to time by regulations.

Period of engagement

34. Men between the ages of eighteen and thirty, inclusive, shall be qualified for enlistment into the Permanent Force, and men between the ages of eighteen and thirty-five, inclusive, shall be qualified for enlistment into the Militia; in addition to these, boys of fourteen and upwards may be enlisted as musicians, drummers, trumpeters, or buglers.

Age for enlistment

35. The Governor may appoint one or more officers to raise such Permanent and Militia Force as aforesaid, and to enlist and enrol men and boys for the same, and may define the districts or parts of districts within which such persons shall act. The officer, to be termed the Enrolling Officer, thus appointed shall have the power to administer the oath of allegiance.

Governor may appoint enrolling officers

36. Every person engaging or re-engaging himself to serve in the Permanent or Militia Force and enrolling himself therein shall take the following oath to serve in such Force for the period of three or seven years, as the case may be, or such lesser period as may be prescribed, and during such period shall be subject to all such rules and regulations as may be in force for the time being:—

Every person engaging to serve in the Permanent Force or Militia must take an oath

37. I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law, and that I will faithfully serve as a member of the for a period (or further period) of years, pursuant to 'The Defence Forces Act, 1894,' unless I be previously discharged. So help me God.

Oath of allegiance

(Signature.)

(Witness.)

38. The payment, clothing, and equipment of the Permanent Force and Militia shall be subject to the regulations.

Payment, clothing, and equipment

39. The Governor may call out the Militia, either in whole or in part, for the purpose of drill exercise and training, at such times and places as he may think fit.

Drill exercise and training of Militia

*The Defence Forces Act, 1894*Discipline,
measures for

40. The Permanent Force always, and the Militia Force whilst called out for any purpose, shall be subject to the provisions of the Army Act and the Queen's Regulations and Orders for the Army, as far as is consistent with this Act.

Governor may
make regulations
for inflicting
fines

41. The Governor may make any regulations for the inflictions of fines upon and stoppages of pay from any man of the Permanent Force or Militia, and for the recovery thereof, as he may think fit from time to time.

Privileged leave
of absence for
militiamen

42. (1) A Militiaman shall have the privilege, subject to the regulations, of obtaining six months' leave of absence from the Colony under the following provisions:—

(a) He shall give notice in writing to his commanding officer of his desire for such leave of absence, and shall deliver up to his commanding officer, or to the person prescribed, his arms, accoutrements, equipment, and clothing, and afterwards obtain permission in writing from his commanding officer for such leave.

(b) Such absence shall not count towards his three years engagement.

(c) If such Militiaman do not return on or before the expiration of six months, he shall be struck off the roll of his corps.

(2) But the Commandant may, for good and sufficient reasons, cause such absentee to be struck off the roll of his corps at any time during the period of such absence, or may for such good and sufficient reasons retain him on the strength even though absent for any period exceeding the said six months.

Period of engage-
ment ending
during actual
service

43. Any warrant officer, non-commissioned officer, or man whose period of engagement comes to an end during such time as his Force is engaged in or called out for actual service under this Act, is hereby bound to continue his service if required by the Governor so to do until such actual service be at an end, except that no such continued service shall exceed one year.

Continuation in
service beyond
period

44. Should any soldier be continued in the service beyond the date upon which he should have been discharged, owing to unforeseen circumstances, error in calculating service, or any accidental cause, he shall have no claim upon the Government by reason of such continuation other than for his pay and allowances in the rank held by him at the time of his continued service and for the time of such continuation.

PART III

VOLUNTEER FORCE

Constitution of
Force

45. The Volunteer Force shall consist of all officers commissioned to that Force and of all Volunteer Corps authorised by and raised under this Act or the said repealed Acts.

Existing
Volunteer Corps
to continue

46. (1) Every Volunteer Corps whose services have been accepted under the said repealed Acts shall continue in existence as a corps

The Defence Forces Act, 1894

under the provisions of this Act in the same manner as if it had been formed under this Act: Provided that any volunteer, being a member of any such corps, may, within three calendar months after the passing of this Act, retire from such corps on giving fourteen days' notice of his intention so to do in writing to his commanding officer, but after such three months may retire only under the provisions hereinafter mentioned.

(2) Except as herein expressly provided, nothing herein contained shall be deemed to deprive any person who has been a member of any corps under the said repealed Acts, of any immunity or privilege to which under the said Acts he may be or but for this Act would have been entitled at the passing hereof.

47. The several corps of "the Volunteer Force shall have such precedence as regards one another as shall be prescribed. Precedence

48. The several corps of the Volunteer Force may be raised, enrolled, organised, trained, and located in such manner as regards drill and discipline, and in such districts and sub-districts as may be prescribed. Organisation

49. The term of service in the Volunteer Force shall be for such period as the volunteer may wish to serve, or until he shall have attained the age of fifty-five years: Provided that the Commandant may in individual cases permit a volunteer to serve after he has attained such age: Provided further that no member of the Volunteer Force, except as hereinbefore mentioned, shall be entitled to retire therefrom until after the expiration of two calendar months from the date of notice given by him in writing to his commanding officer of his intention so to do. Term of service

50. (1) The Governor may accept the services of any persons desiring to be formed under this Act into a Volunteer Corps, and on a notification of the Governor's acceptance of such service, and approval of such formation appearing in the 'Government Gazette,' the corps shall be deemed to have been duly formed for the purposes of this Act. The offer of such services to be made through the Commandant in writing, and a list of those persons desirous of being so formed into a corps being furnished at the same time. Formation of corps

(2) When the formation of a new corps has been so approved the enrolment of its members may be made as soon as conveniently may be, by any officer deputed by the Governor or by an officer provisionally appointed for the purpose, or by an enrolling officer.

51. There shall be a muster-roll for every corps of volunteers, which every person who joins shall sign after having taking the oath of allegiance, and the date of his signing such roll shall at the same time be entered thereon. This roll shall be kept by the officer commanding the corps, whose duty it shall be to enter therein the date upon which any member of the corps quits, or is discharged or dismissed, or becomes non-effective in any manner, and the way in which he becomes so non-effective; and it shall further be the duty of the officer commanding, when so required, to produce such roll or furnish a copy thereof to the Commandant. Muster-roll

The Defence Forces Act, 1894

- Enrolment** 52. Every volunteer, on his enrolment in the muster-roll of the corps he joins, shall take and subscribe the oath of allegiance as follows, to be administered by the commanding officer, or by an officer who has been duly appointed for the purpose, or by a Justice of the Peace:—
- Oath of allegiance** ‘I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors, as lawful sovereigns of the United Kingdom of Great Britain and Ireland, and of this Colony of Western Australia, dependent on and belonging to the said United Kingdom; and that I will faithfully serve Her said Majesty, Her heirs and successors, in this Colony, for the defence of the same against all Her enemies and opposers whatsoever. So help me God.’
- Membership** 53. No person shall be recognised as a member of a Volunteer Corps, for any of the purposes of this Act, unless his name appear in the muster-roll thereof.
- Correction of muster-roll** 54. The Commandant may cancel or correct any entry in the muster-roll of any corps which may have been made by mistake or improperly, if he be satisfied that such entry is incorrect.
- Commandant may grant a certificate of membership** 55. The Commandant shall, on demand, and on payment of the sum of one shilling, cause to be issued to any member of a Volunteer Corps a certificate of membership under his hand, and such certificate shall be *prima facie* evidence of the membership stated therein.
- Expulsion from Force** 56. (1) The Commandant may expel any volunteer, other than a commissioned officer, who shall be guilty of any infraction of the provisions of this Act, or of any regulations, or who, in the opinion of the Commandant, shall have shown himself to be unfit to be a volunteer.
- Appeal** (2) An appeal from the decision of the Commandant expelling such volunteer shall lie to the Governor within twenty-one days after such decision, and the Governor may cancel or confirm such decision.
- (3) On the expiration of the time for appealing, or if on the appeal the decision be confirmed, notice of such expulsion shall be published by the Commandant in the ‘Government Gazette,’ and after such publication the volunteer shall be deemed to be duly expelled, and to forfeit all benefit of this Act and the said repealed Acts.
- Expelled volunteer not to be re-enrolled** 57. No person expelled from the Volunteer Force under the provisions contained in this Act, nor a member of a corps disbanded under the provisions of this Act for any infraction of any provisions of this Act or of any regulations shall be re-enrolled in any Volunteer Corps save by special permission of the Commandant.
- Disbandment of Volunteer Force or corps** 58. After the publication in the ‘Government Gazette’ of the order of the Governor disbanding the Volunteer Force, or any corps thereof, the force or corps so disbanded shall cease to exist, and shall forfeit all the benefits of this Act and the said repealed Acts, and the

The Defence Forces Act, 1894

production of a copy of the 'Government Gazette' purporting to contain a copy of such order of disbandment shall be conclusive evidence thereof.

59. Previous to the disbandment of a corps the Commandant shall issue an order that all arms, accoutrements, clothing, and Government property on the charge of that corps shall be called in by the commanding officer of any such corps, and shall be deposited by him in such place and given up to such person as may be appointed, and such reasonable expenses as may be incurred by him in so collecting and depositing the same shall be repaid to such commanding officer out of the funds appropriated for the maintenance of the Volunteer Force; and if any such commanding officer shall refuse or neglect to call in and deliver up such arms, accoutrements, and clothing, or shall fail in using due diligence to obtain and deliver up the same for the space of three months from the day of the date of the issuing of such order as aforesaid, such commanding officer so refusing, failing, or neglecting as aforesaid shall be liable to a penalty not exceeding Fifty pounds and not less than Five pounds.

Commanding officer to deposit arms, &c., as appointed by Governor

60. On the disbandment of a corps, all moneys remaining on hand which have been received from the Government, or other public sources, and which are standing to the credit of the corps account, shall be placed at the disposal of the Government, and the commanding officer of such corps shall furnish a full and correct account of all such moneys to the Commandant within one calendar month of the disbandment of his corps.

Disposal of corps funds on disbandment

61. (1) No volunteer shall cease to be a member of a corps, while his corps is called out for actual service, without the special sanction of the Governor being first obtained, nor, having become a member of a corps, shall cease to be a member thereof, unless struck off the list of members or roll of the corps by the Commandant, or in case of a volunteer under the rank of sergeant by the commanding officer of the said corps.

Cesser of membership

(2) No volunteer shall be struck off, except in the following cases:—

Cases in which members may be struck off

- (1) On retiring under the provisions of section forty-six :
- (2) On attaining the age of fifty-five years :
- (3) On the expiration of two calendar months after the volunteer, being of any other age, shall have given written notice to his commanding officer of his desire to retire :
- (4) If the volunteer shall be transferred to another Volunteer Corps :
- (5) If a volunteer change his domicile so as to be out of his district or sub-district :
- (6) If a volunteer is absent three months from the district or sub-district of his corps, unless specially allowed to remain in the Force by the Commandant :
- (7) If he become physically unfit for service, or in the opinion of his commanding officer a useless member of his corps, or wilfully absents himself from drill :

The Defence Forces Act, 1894

(8) If the corps to which a volunteer belongs is disbanded, or if the whole Volunteer Force is disbanded under the provisions contained in this Act :

(9) If expelled in accordance with the provisions of this Act.

Uniform, rifle,
ammunition, and
corps property

62. (1) Every volunteer shall be provided with a distinctive uniform as prescribed, and must wear the same as prescribed.

(2) Rifles and such accoutrements and equipments as may be prescribed shall, subject to regulations, be issued to commanding officers on loan for the sole use of their corps, and they shall be held responsible for the same. And there shall be similarly issued for every volunteer annually so much rifle ammunition as may be allowed by the regulations, and such further supply, if any, and on such terms including payment as may be prescribed, and every volunteer to whom articles of Government or corps property have been issued shall maintain the same in good condition, and shall be liable to be charged for any damage or deterioration, other than fair wear and tear, which shall be the result of his carelessness or neglect.

Surrender of
arms and
ammunition

63. Every volunteer ceasing to be a member of the Volunteer Force under the provisions of this Act, or if ordered so to do by his commanding officer, or any person deputed by the Commandant, shall deliver up to his commanding officer, or to such person as shall be appointed by the Commandant, the rifle, arms, accoutrements, equipments, and unexpended ammunition, as well as any other articles in his possession, the property of Her Majesty's Colonial Government of Western Australia.

Government
property may be
lent to corps
subject to
regulations

64. (1) Any other property of Her Majesty's Colonial Government of the said Colony may be lent to any Volunteer Corps subject to regulations.

(2) If any such property shall be damaged or destroyed, the Minister may call upon the commanding officer for the time being of the corps to which such property shall have been lent, for an explanation, and if the same shall in the opinion of the Minister be unsatisfactory the Minister shall fix the amount of the damage to, or value of such property, and may call upon the commanding officer to make good the same, and may recover the amount or value from him.

Standard of
efficiency

65. A standard for efficient volunteers shall be fixed by the regulations.

Offences dealt
with by regula-
tions

66. Offences by members of the Volunteer Force (other than those provided by this Act with respect to members of the Volunteer Force when called out for actual service, or those provided by Part I. of this Act, as general to all the Forces), and the punishment thereof, by fine or imprisonment, shall be fixed by the regulations; but no fine for such offences shall exceed Five pounds, and no term of imprisonment shall exceed fourteen days.

Commandant to
determine and
superintend
details

67. The Commandant shall, subject to the provisions of this Act, determine all military details respecting the distribution and movements of the troops and the composition of the different detachments. The Commandant shall, subject as aforesaid, have the superintendence

The Defence Forces Act, 1894

of all details connected with the Volunteer Force, the regimental duty and discipline of the Force, inspections, courts of inquiry, and the granting leave of absence to volunteer officers.

To grant leave

68. If any officer of a Volunteer Corps or any non-commissioned officer of the said staff, or any volunteer while under arms, or on march or duty with the corps to which he belongs, or with any portion of the Volunteer Force, or while engaged in any military exercise or drill, or while wearing the clothing or accoutrements of such corps or regiment, and going to and returning from any place of exercise or assembly of such corps or regiment, disobeys any lawful order of any officer under whose command he then is, or is guilty of misconduct, the officer then in command of the corps or regiment, or any superior officer under whose command the corps or regiment then is, may order the offender, if a commissioned officer, into arrest, and if not a commissioned officer, into the custody of any volunteer belonging to the corps or regiment or of any non-commissioned officer of the Volunteer Permanent Staff, but so that the offender be not kept in such arrest or custody longer than whilst, or so long as the corps or regiment or such portion thereof as aforesaid shall then remain under arms, or be on march or duty, or be assembled or continue engaged in any such military exercise or drill as aforesaid.

Commanding officer may place under arrest while corps is under arms, &c.

69. The officers and volunteers of a Volunteer Corps may from time to time make rules for the management of the property, finances, and civil affairs of the corps, and may alter and repeal any such rules. And the commanding officer of the corps shall transmit such rules to the Commandant for his approval or otherwise. When the Commandant has approved any rules and this has been notified to the commanding officer of the corps, to be by him forthwith communicated to the corps, the rules so approved shall be binding on all persons belonging to the corps. A copy of the rules in print or writing, or partly in print and partly in writing, certified under the hand of the officer commanding the corps as a true copy of the rules, whereof the Commandant's approval has been notified as aforesaid, shall be conclusive evidence of the rules of the corps. Provided that nothing contained in this Act shall be construed to extend, to repeal, or disallow any rules of any Volunteer Corps which have heretofore been approved by the Governor so far as the same are consistent with the provisions of this Act, and nothing herein contained shall extend to prevent Her Majesty, or the Governor in Her Majesty's name or the Commandant on behalf of the Governor, from annulling at any time any rules which have been or shall be made for, by, or respecting any Volunteer Corps.

Rules and property of corps

70. If any person belonging or having belonged to a Volunteer Corps shall neglect or refuse to pay on demand any money, subscribed or undertaken to be paid by him towards any of the funds or expenses of such corps, and actually payable by him at the time of demand, or to pay any fine incurred by him under the regulations, such money or fine shall (without prejudice to any other remedy) be recoverable from him with costs, or at any time within twelve months after the same shall have become due and payable as a penalty under this Act is recoverable, and when recovered shall be applied as part of the general fund of the corps.

Subscriptions and fines, how recoverable

The Defence Forces Act, 1894

Penalty for destroying, selling, pawning, or damaging articles issued to volunteers

71. If any person designedly makes away with, sells, pawns, destroys, or damages anything issued to him as a volunteer, or refuses or neglects to deliver up on demand anything so issued to him, the value thereof shall be recoverable from him with costs as a penalty; and he shall also, for every such offence, if designedly making away, selling, pawning, destroying, or damaging, as aforesaid, be liable, on the prosecution of the commanding officer of the corps issuing the thing made away with, sold, pawned, destroyed, or damaged, to a penalty not exceeding Ten pounds.

Bounty on release

72. On the release of a Volunteer Corps from actual military service, extending over a period of one week, there shall be paid, in manner provided by the regulations, One guinea to every such volunteer officer, volunteer, and non-commissioned officer present with the corps at the time of such release (except to such as do not desire to receive the same), in addition to his pay.

PART IV

OFFENCES AND MISCELLANEOUS

Offences by persons not belonging to the Forces

73. It shall not be lawful for any person, not being a member of the Forces authorised by this Act, to wear the uniform, or any part thereof, of any of the Forces.

Amended by 59 Vic., No. 4

Every person who shall—

- (a) Falsely represent himself to be a member of any of the said Forces; or
- (b) Not being a member shall wear the uniform, or any part of the uniform, of any of the said Forces:

shall for every such offence be liable on summary conviction to a penalty not exceeding Twenty pounds, with or without imprisonment, for any term not exceeding three months, with or without hard labour.

Unlawfully disposing of arms, &c.

74. (1) Every person who—

- (a) Unlawfully disposes of or removes any arms, accoutrements or other articles belonging to the Crown or any corps; or
- (b) Refuses to deliver up the same when lawfully required; or
- (c) Has the same in his possession, except for lawful purposes (the proof of which shall lie upon him):

shall be liable to a penalty of Five pounds for each offence; but this shall not prevent such offender from being indicted and punished for any greater offence if the facts amount to a greater offence, instead of being subjected to the penalty aforesaid.

Person charged and suspected of leaving Colony with arms, &c., may be arrested

(2) Any person charged with any offence mentioned in this section may be arrested by order of the Justice before whom the complaint is made, upon information on oath showing that there is reason to believe that such person is about to leave Western Australia carrying with him any such arms, accoutrements, or articles.

The Defence Forces Act, 1894

75. (1) For the purposes of any proceedings in any Court of civil or criminal jurisdiction, all moneys subscribed by or for or otherwise appropriated to the use of any corps, and all arms, ammunition, accoutrements, musical instruments, or other things belonging to or used by any corps, and not being the private property of a member of the corps, and all lands acquired by the corps, shall be deemed to be vested in the commanding officer, and to be his property, and may be so described in any information or other proceeding.

Subscriptions,
arms, &c., vested
in commanding
officer

(2) No gift, sale, or other alienation, or attempted alienation of any such money, arms, ammunition, accoutrements, musical instruments, or other things, by any person, whether he is a member of the corps or not, shall be effectual to pass the property therein without the consent of the commanding officer.

(3) If any property belonging to or used by or for the Defence Force is not appropriated to any particular corps, or it is uncertain to which corps it belongs, the same shall be deemed to be the property of the Commandant.

(4) An action or suit shall not be discontinued by the death, resignation, or removal of the Commandant, or any commanding officer, but may proceed in the name of his successor.

76. Every person who—

- (1) Procures or persuades any man who has been enlisted to serve in any corps to desert; or
- (2) Attempts to procure or persuade any such man to desert; or
- (3) Knowing that any such man is about to desert, aids or assists him in deserting;
- (4) Knowing any such man to be a deserter, conceals such man, or aids or assists him in concealing himself, or aids or assists in his rescue;

Offences con-
nected with
desertion

shall be liable to be imprisoned, with or without hard labour, for a period not exceeding six months.

77. Every person who wilfully contravenes any provision of this Act, or the regulations, shall, when no other penalty is imposed for such contravention, be liable to a penalty not exceeding Five pounds for each offence; but this section shall not prevent his being indicted and punished for any greater offence if the facts amount to a greater offence.

Penalty for
contravening
this Act or the
regulations
when no other
penalty

78. Every commissioned officer of the Permanent Force or Militia, and every volunteer officer who has held a commission for a period of two years, shall be exempt from serving as a juror, so long as he continues to serve in any such Force. Every non-commissioned officer and man of the Permanent Force and Militia, whilst embodied, shall also be exempt from serving as a juror. In the case of Militia a certificate under the hand of the man's commanding officer shall be sufficient *prima facie* evidence of the identity of such man and his right to claim such exemption, notwithstanding his name may be upon the jury list.

Exemptions

79. (1) All offences against this Act or the regulations, except where otherwise expressly provided, shall be summarily punishable,

Recovery and
appropriation
of penalties

The Defence Forces Act, 1894

upon conviction before a Justice or Justices of the Peace in Petty Sessions, and all informations and proceedings in respect of such offences shall be heard and determined, and the penalties and forfeitures in respect thereof, and any money payable or fine imposed under this Act or the regulations, shall be enforced and appropriated if not otherwise expressly provided, according to the provisions of an Ordinance, No. 5, passed in the fourteenth year of the reign of Her present Majesty.

(2) Any officer of the Defence Force preferring an information or complaint under this Act shall not be liable to pay any fees in respect thereof.

(3) Any offence made by this Act punishable by fine or imprisonment, which is also punishable under 'The Army Act,' may be dealt with under this Act, but no offender shall be punished twice for the same offence.

Prosecutions

80. (1) No prosecution for an offence against this Act or the regulations shall be brought against a commissioned officer of the Forces, except on the complaint of the Commandant, and no prosecution against any man of the Forces shall be brought, except on the complaint of the commanding officer or adjutant of the corps.

(2) But the Commandant may authorise any commissioned officer of the Forces to make a complaint in his name and the authority of any such officer, alleging himself to have been so authorised to make a complaint, shall not be controverted or called in question except by the Commandant.

(3) No prosecution shall be commenced after the expiration of six months from the commission of the offence charged, unless it be for unlawfully buying, selling, or having in possession arms, accoutrements, or other articles delivered to the Force, or for desertion.

No *certiorari*

Conviction not to be quashed for want of form

81. No summary conviction or adjudication under this Act or adjudication made on appeal therefrom shall be quashed for want of form, or be removed by *certiorari*. And no warrant of commitment on any such conviction shall be held void by reason of any defect therein, if it is therein alleged that the person therein named has been convicted, and there is a conviction to sustain the same.

Penalty for damaging or disturbing butts

82. If any person wilfully commits any damage to any range, butt, target, building, shed, or erection, belonging to Her Majesty or to the Government of Western Australia, or belonging to or lawfully used by any corps, or without the leave of the Commandant or of the commanding officer of such corps, searches for bullets in or otherwise disturbs the soil at, under, or about any butt or target, he shall for every such offence be liable, on the prosecution of the Commandant or commanding officer of such corps, to a penalty not exceeding Five pounds.

The Governor can disband any corps

83. The Governor shall have the power to disband any corps, or portion of a corps, specified in this Act, by a general order to be published in the 'Government Gazette.'

W. C. F. ROBINSON,
GOVERNOR.