



Defence Act 1859

1859 CHAPTER 12 22 Vict

An Act to make further provision for the purchase of common and other rights by Her Majesty's Principal Secretary of State for the War Department, and in relation to land vested in or taken by such Secretary of State. [8th April 1859]

Modifications etc. (not altering text)

- C1 Short title "The Defence Act 1859" given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act applied with modifications by [Requisitioned Land and War Works Act 1945 \(c. 43\)](#), ss. 32, 33, [Sch.](#), [Land Powers \(Defence\) Act 1958 \(c. 30\)](#), s. 13, [Sch. 2 para. 13](#) and S.I. 1965/1536
- C3 Words of enactment repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)
- C4 Acts cited or referred to by their short titles under authority of [Statute Law Revision Act 1893 \(c. 14\)](#), s. 3
- C5 Power to apply Act with modifications conferred by [Supply Powers Act 1975 \(c. 9, SIF 57\)](#), s. 2, [Sch. 1 Pt. 1](#)

Commencement Information

- I1 Act wholly in force at Royal assent.

1 F1

Textual Amendments

- F1 [S. 1](#) repealed by [Military Lands Act 1892 \(c. 43\)](#), [Sch.](#)

2 ^{X1}† **Conveyances of land to Secretary of State for War as in Sched.(A).**

Conveyances of land in England and Ireland to be purchased by [^{F2}the Secretary of State for Defence] may be according to the form in the schedule (A.) to this Act, or as near thereto as the circumstances of the case admit; and all conveyances so made shall be effectual to vest the land thereby conveyed in [^{F2}the Secretary of State for Defence] and his successors, and shall operate to bar and destroy all such estates tail,

Status: Point in time view as at 02/02/1991.

Changes to legislation: Defence Act 1859 is up to date with all changes known to be in force on or before 10 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

and other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever of and in the land comprised in such conveyances, as have been purchased or compensated for by the consideration given on the purchase; . . . ^{F3}

Editorial Information

X1 A dagger appended to a marginal note means that it is no longer accurate.

Textual Amendments

F2 Words substituted by [S.I. 1964/488](#)

F3 Words repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. VII](#)

3 †Conveyances to the Secretary of State for War of land in Scotland as in Sched. (B).

Feus and conveyances of lands and heritages in Scotland to be purchased by [^{F4}the Secretary of State for Defence] may be according to the form in the schedule (B.) to this Act, or as near thereto as the circumstances of the case admit; which feus and conveyances being duly executed and being registered in the . . . ^{F5} register of sasines kept for the . . . ^{F5} burgh, . . . ^{F5} in which the lands and heritages are locally situated, or in the general register of sasines for Scotland kept at Edinburgh, within sixty days from the last date thereof, which the respective keepers of the said registers are hereby authorized and required to do, shall give and constitute a good and undoubted right, and complete and valid feudal title in all time coming, to [^{F4}the Secretary of State for Defence] and his successors, to the lands and heritages therein described or referred to and intended to be thereby conveyed, any law or custom to the contrary notwithstanding: provided always, that it shall not be necessary for [^{F4}the Secretary of State for Defence] to record in any register of sasines any feus or conveyances in their favour which shall contain a procuratory of resignation or precept of sasine, or which may be completed by infeftment; and the title of [^{F4}the Secretary of State for Defence] under such last-mentioned feus or conveyances shall be regulated by the ordinary law of Scotland until the said feus or conveyances or the instruments of sasine thereon, shall have been recorded in a register of sasines; provided also, that the rights and titles to be granted in manner herein mentioned in and to any lands and heritages in Scotland shall, unless otherwise specially provided for, in nowise affect or diminish the right of superiority in the same, which shall remain entire in the person granting such rights and titles; but in the event of such lands and heritages being a part or portion of other lands and heritages held by the same owner under the same titles, [^{F4}the Secretary of State for Defence], his successors and assigns, shall not be liable for any feu duties or casualties to the superiors thereof, or be bound to enter with the said superiors.

Textual Amendments

F4 Words substituted by [S.I. 1964/488](#)

F5 Words repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

Modifications etc. (not altering text)

C6 A dagger appended to a marginal note means that it is no longer accurate

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Textual Amendments

F6 S. 4 repealed by S.I. 1964/488

5 Recovery of possession of land in England from tenants.

Where any lease or agreement of or concerning land in England vested in [^{F7}the Secretary of State for Defence] on behalf of Her Majesty is determined by expiration, notice, or forfeiture (except for nonpayment of rent), possession of such land may be recovered by or on behalf of [^{F7}the Secretary of State for Defence] . . . ^{F8}with rent or mesne profits, or both, under the Act of the session holden in the nineteenth and twentieth years of Her Majesty, chapter one hundred and eight, as in cases provided for in section fifty of such Act, and other provisions auxiliary thereto, although the value of the premises and the rent which may have been payable in respect thereof may have exceeded fifty pounds by the year; . . . ^{F8}and in proceeding under the said Act of the nineteenth and twentieth years of Her Majesty for the recovery of possession as aforesaid it shall not be necessary to prove the yearly value and rent as thereby required.

Textual Amendments

F7 Words substituted by S.I. 1964/488

F8 Words repealed by Rent Act 1965 (c. 75), s. 52(1), Sch. 7 Pt. II

6 Recovery of possession of land in Ireland from tenants.

When any lease or agreement of or concerning land in Ireland vested in [^{F9}the Secretary of State for Defence] on behalf of Her Majesty is determined by expiration, notice, or forfeiture (except for nonpayment of rent), possession of such land may be recovered by or on behalf of [^{F9}the Secretary of State for Defence] either as provided by section seventy-two of the ^{M1}Civil Bills Court (Ireland) Act, 1851, in the case of lands holden by a tenant at a rent not exceeding fifty pounds per annum, and the tenant's interest wherein is determined, notwithstanding the rent payable under such lease or agreement may exceed that amount, and the provisions of the said Act shall be applicable accordingly, [^{F10}or as provided by section fifteen of the ^{M2}Summary Jurisdiction (Ireland) Act, 1851, for the recovery of possession of houses in certain towns and villages; and such last-mentioned provision shall be applicable in all cases to the recovery of land in Ireland holden under any such lease or agreement as aforesaid where such lease or agreement is determined as aforesaid, wherever such land may be situate, and at and for whatever rent and term the same may be holden; and notwithstanding anything to the contrary in the said provision, the justices authorized to issue a warrant for giving possession may by such warrant authorize such possession to be given forthwith, or on or before such day as the justices may think fit, to name, and may, if they think fit, issue such warrant notwithstanding the tenant may be willing to give such undertaking as therein mentioned.]

Textual Amendments

F9 Words substituted by S.I. 1964/488

F10 Words repealed (N.I.) by S.I. 1978/1050 (N.I. 20), Sch. 10

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Marginal Citations

- M1 [1851 c. 57.](#)
- M2 [1851 c. 92.](#)

7 ^{x2}† Nothing to lessen powers of Secretary of State for War.

Nothing in this Act shall extend to take away, lessen, or prejudice any powers, rights, or authorities which would or might have been vested in or exercised by [^{F11}the Secretary of State for Defence] if this Act had not been passed.

Editorial Information

- X2 A dagger appended to a marginal note means that it is no longer accurate.

Textual Amendments

- F11 Words substituted by [S.I. 1964/488](#)

8^{F12}

Textual Amendments

- F12 [S. 8](#) repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)

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SCHEDULE (A.)

FORM OF CONVEYANCE

I, , of , in consideration of the sum of paid to me by Her Majesty's Principal Secretary of State [^{F13}for Defence], do hereby convey to [^{F13}the Secretary of State for Defence], and his successors, all the lands and hereditaments set forth in the schedule hereto, together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by law empowered to convey, to hold the premises to [^{F13}the Secretary of State for Defence] and his successors for ever on behalf of Her Majesty.

Textual Amendments

F13 Words substituted by [S.I. 1964/488](#)

In witness whereof I have hereunto set my hand and seal, the day of , in the year of our Lord .

The Schedule:

SCHEDULE (B.)

FORM OF CONVEYANCE

I, , of , in consideration of the sum of pounds paid to me by Her Majesty's Principal Secretary of State [^{F14}for Defence], do hereby sell, alienate, dispoⁿe, convey, assign, and make over from me, my heirs and successors, to [^{F14}the Secretary of State for Defence], and his successors for ever, all the lands and heritages set forth in the schedule hereto, together with all rights and pertinents thereto belonging, and all such right, title, and interest in and to the same as I and my aforesaid^s are or shall become possessed of or are empowered to convey [*here insert the condition (if any) of the conveyance and a registration clause for preservation and diligence, and a testing clause, according to the form of the law in Scotland*].

Textual Amendments

F14 Words substituted by [S.I. 1964/488](#)

The Schedule:

Status:

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