



# 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- C3 Words of enactment repealed by [Statute Law Revision Act 1892 \(c. 19\)](#)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- F1 [S. 1](#) repealed by [Military Lands Act 1892 \(c. 43\)](#), [Sch.](#)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 <sup>X1</sup>† **Conveyances of land to Secretary of State for War as in Sched.(A).**

Conveyances of land in England and Ireland to be purchased by [<sup>F2</sup>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 [<sup>F2</sup>the Secretary of State for Defence] and his successors, and shall operate to bar and destroy all such estates tail,

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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; . . . <sup>F3</sup>

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**F3** Words repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt.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

<sup>F4</sup>... conveyances of lands and heritages in Scotland to be purchased by [<sup>F5</sup>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 <sup>F4</sup>... conveyances being duly executed and being registered in the . . . <sup>F6</sup> register of sasines kept for the . . . <sup>F6</sup> burgh, . . . <sup>F6</sup> 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 <sup>F4</sup>... title in all time coming, to [<sup>F5</sup>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 <sup>F4</sup>...

#### Textual Amendments

**F4** Words in s. 3 repealed (S.) (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000 \(asp 5\)](#), ss. 71, 77(2), [sch. 13 Pt. 1](#) (with ss. 58, 62, 75); [S.S.I. 2003/456](#), art. 2

**F5** Words substituted by [S.I. 1964/488](#)

**F6** 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

### 4 ..... <sup>F7</sup>

#### Textual Amendments

**F7** [S. 4](#) repealed by [S.I. 1964/488](#)

### <sup>F8</sup>5 Recovery of possession of land in England from tenants.

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#### Textual Amendments

**F8** S. 5 repealed by [S.I. 1991/724](#) Schedule Part 1

## 6 Recovery of possession of land in Ireland from tenants.

When any lease or agreement of or concerning land in Ireland vested in [<sup>F9</sup>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 [<sup>F9</sup>the Secretary of State for Defence] either as provided by section seventy-two of the <sup>M1</sup>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, [<sup>F10</sup>or as provided by section fifteen of the <sup>M2</sup>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](#)

#### Marginal Citations

**M1** [1851 c. 57.](#)

**M2** [1851 c. 92.](#)

## 7 <sup>X2</sup>† 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 [<sup>F11</sup>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](#)

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**8** ..... **F12**

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**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 [<sup>F13</sup>for Defence], do hereby convey to [<sup>F13</sup>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 [<sup>F13</sup>the Secretary of State for Defence] and his successors for ever on behalf of Her Majesty.

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#### 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 [<sup>F14</sup>for Defence], do hereby sell, alienate, dispoise, convey, assign, and make over from me, my heirs and successors, to [<sup>F14</sup>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 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*].

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#### Textual Amendments

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

The Schedule:

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**Commencement Orders yet to be applied to the Defence Act 1859**

Commencement Orders bringing legislation that affects this Act into force:

- [S.S.I. 2003/456 art. 2](#) commences (2000 asp 5)