



Defence Act 1842

1842 CHAPTER 94 5 and 6 Vict

An Act to consolidate and amend the laws relating to the services of the Ordnance Department, and the vesting and purchase of lands and hereditaments for those services, and for the defence and security of the Realm. [10th August 1842]

1—4^{F1}

Textual Amendments

F1 Ss. 1–4, 11, 35 and 38 repealed by [Statute Law Revision Act 1874 \(No. 2\)\(c. 96\)](#)

5 Lands, &c. purchased for the service of the ordnance, and all buildings, &c. thereon, vested in the principal officers.

All messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, save and except as herein-after is mentioned, which have been heretofore set apart for the use and service or placed under the charge of the ordnance or late barrack department, or which have been heretofore set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or of Her royal predecessors, for the use and service of the said departments, or for military defences, or which have been heretofore held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person or persons in trust for Her Majesty or Her royal predecessors for the use and service of the said departments, or for the defence and security of the realm, either in fee or for any life or lives, or otherwise howsoever, and all erections and buildings which now are or which shall or may hereafter be erected and built thereon, together with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and continue vested in the principal officers of Her Majesty's ordnance for the time being, and their successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in trust for Her Majesty for the service of the said ordnance department, or for such other

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public service or services as Her said Majesty shall from time to time by any order in council be pleased to direct.

Modifications etc. (not altering text)
C11 S. 5 amended by [Defence Act Amendment Act 1864 \(c. 89\)](#)

6 Lands to be hereafter taken, &c. to be vested in the same manner.

From and after the setting apart or placing under charge, or purchase, and conveyance, grant or demise thereof, all other messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall at any time or times hereafter be set apart for the use and service or placed under the charge of the ordnance or late barrack department, or which shall be hereafter set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or Her royal predecessors, for the use and service of the said departments, or for military defences, or which shall be hereafter held, used, or occupied, or purchased, vested, or taken by or in the name of or by any person or persons in trust for Her Majesty or Her royal predecessors for the use and service of the said departments, or for the defence and security of the realm; and all erections and buildings which shall then or which may thereafter be erected and built thereon, with the rights, members, easements, and appurtenances to the same respectively belonging, shall be and become and remain and continue vested in the principal officers of Her Majesty’s ordnance for the time being, and their successors in the said office, according to the nature and quality of and the respective estates and interests in such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in trust for Her Majesty for the service of the said ordnance department, or for such other public service or services as Her said Majesty shall from time to time, by any order in council, be pleased to direct.

7 †Terms assigned to attend the inheritance of lands, &c. holden for the ordnance to remain in same trustees on same terms.

.....^{F2} it shall be lawful for the said principal officers for the time being to convey, surrender, or assign all or any of the hereditaments and premises which now are or hereafter shall be vested in them, and to direct all or any of the hereditaments and premises which shall hereafter be agreed to be purchased or taken by them to be conveyed, surrendered, or assigned to a trustee or trustees, for the use of the ordnance department, or the defence of the realm, upon the trusts to which the same shall or ought to be subject, in case from any circumstance whatsoever it shall in the judgment of the said principal officers for the time being be expedient so to do, anything herein or in the said recited Acts contained to the contrary notwithstanding.

Textual Amendments
F2 Words repealed by [Statute Law Revision Act 1874 \(No. 2\) \(c. 96\)](#)

Modifications etc. (not altering text)
C12 A dagger appended to a marginal note means that it is no longer accurate

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Textual Amendments

F3 S. 8 repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), s. 1, **Sch. Pt. X**

9 **Principal officers may purchase lands, &c. and take leases on behalf of the Crown.**

It shall be lawful for the said principal officers for the time being of Her Majesty's ordnance from time to time to contract for and purchase, for and on behalf of Her Majesty any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or to take or purchase any lease of the same which shall in their judgment be desirable to be purchased, for and on behalf of the said ordnance or barrack services, or the defence of the realm, upon such terms as to the said principal officers shall seem meet, and to enter into any contracts necessary for that purpose; . . .^{F4}

Textual Amendments

F4 Words repealed by Statute Law Revision Act 1874 (No. 2) (c. 96)

10 **Power given to bodies politic and others to treat.**

It shall be lawful for all bodies politic or corporate, ecclesiastical, or civil, and all . . .^{F5} trustees for charitable or other public purposes, and for all [^{F6}tenants, for life and tenants in tail, and for the . . .^{F7}, guardians, trustees, . . .^{F8}, curators or] attorneys of such of the owners or proprietors, of or persons interested in any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which have been or may be hereafter agreed to be purchased or taken for the use of the said ordnance department, as shall be [^{F9} . . .^{F5}, infants, . . .^{F10}, or] persons beyond the seas, or otherwise incapable of acting for themselves, to contract or agree with the said principal officers for the time being, either for the absolute sale or exchange of any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, or sale of any reversion after any estate or estates, for lives or years, or for the grant of any lease either for life or lives or for any term of years certain therein, or for such period as the exigency of the public service shall require, and to convey, . . .^{F7}, demise, or grant the same accordingly; and all contracts, sales, conveyances, . . .^{F5}, leases, and agreements, which shall be made in pursuance hereof, shall be valid and effectual in law to all intents and purposes whatsoever, [^{F6}and shall be a complete bar to all dower and claims of dower, estates tail and other estates, rights, titles, trusts, and interests whatsoever.]

Textual Amendments

F5 Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**
F6 Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III**

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- F7** Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**
- F8** Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**
- F9** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (S.) by Statute Law (Repeals) Act 1973 (c. 39), s. 1(1), **Sch. 1 Pt. IX**
- F10** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

Modifications etc. (not altering text)

- C13** S. 10 amended as to lunatics and idiots (N.I.) by Mental Treatment Act (Northern Ireland) 1932 (c. 15), s. 7(2) and Mental Health Act (Northern Ireland) 1948 (c. 17), s. 73(1)

11 ^{F11}

Textual Amendments

- F11** Ss. 1–4, 11, 35 and 38 repealed by Statute Law Revision Act 1874 (No. 2)(c. 96)

12 Lands, &c. may be sold, exchanged, or let.

Save and except as herein-after is mentioned, it shall and may be lawful for the said principal officers for the time being to sell, exchange, or in any manner dispose of, or to let or demise any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements or hereditaments respectively, which shall be vested in them under and by virtue of this present Act, with their respective appurtenances, either by public auction or private contract; and to convey . . . ^{F12}, assign, or make over, or to grant or demise the same respectively (as the case may require,) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively, and also to do any other act, matter, or thing in relation to any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall by the said principal officers be deemed beneficial to the public service, in relation thereto, or for the better management thereof, which might be done by any person having a like interest in any such like messuages, buildings, castles, forts, lines or other fortifications, manors, lands, tenements, or hereditaments: Provided always, that nothing in this Act contained shall be construed to give to the said principal officers of Her Majesty's ordnance for the time being a greater or better estate in the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, or any of them, than was vested in Her Majesty, or in the person or persons holding the same in trust for Her Majesty, at the time of the passing of this Act.

Textual Amendments

- F12** Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**

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13 Purchase monies shall be paid to those whom the principal officers may direct.

The monies to arise and be produced by the sale or exchange of any of the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, which shall be so sold or exchanged under the provisions of this present Act, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, to such person or persons as the said principal officers for the time being shall direct or appoint to receive the same, for the use of Her Majesty; and the receipt of the said principal officers for such monies, (such receipt to be indorsed on every such conveyance, . . . ^{F13}, or assignment as aforesaid), shall effectually discharge the purchaser or purchasers or person or persons, by whom or on whose account the same shall be paid.

Textual Amendments

F13 Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**

14 After purchase money paid, the purchaser to have full right and possession.

Immediately from and after the payment of such purchase money, and the execution of every such conveyance, . . . ^{F14}, and assignment as aforesaid, the purchaser or purchasers therein named or the person or persons making such exchange as aforesaid, shall be deemed and adjudged to stand seised and possessed of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall be so purchased or taken in exchange by, and conveyed . . . ^{F14} assigned, or made over to him, her or them respectively, and notwithstanding any defect in the title of the said principal officers thereto, freed and absolutely discharged of and from all and all manner of prior estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever, which can or may be had, made, or set up in, to, out of, or upon or in respect of the same messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, by any person or persons whomsoever on any account whatever (save and except such estates, leases, rights, titles, interests, charges, incumbrances, claims, and demands whatsoever, as in any such conveyance . . . ^{F14}, deed of exchange, or assignment shall be excepted).

Textual Amendments

F14 Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**

Modifications etc. (not altering text)

C14 S. 14 restricted by Requisitioned Land and War Works Act 1945 (c. 43), s. 32(3)

15 Compensation to be made where equitable rights are established; but not to exceed the purchase money received by such principal officers.

Provided always that in case any person or persons shall have any just and legal or equitable right to any of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, which shall be so sold,

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exchanged, and conveyed as aforesaid, or to any part or parts thereof, or to any charge, incumbrance, or demand affecting the same, and not being under any of the disabilities herein-after mentioned, and shall within five years next after such right shall by law or equity accrue to or become vested in him, her, or them respectively, . . . ^{F15}persons within the age of twenty-one years, or out of the realm, or not of whole mind, at the time of such sale, exchange, and conveyance as aforesaid, shall, within five years next after they shall respectively come and be [^{F16} . . . ^{F17} at]the age of twenty-one years, out of prison, within this land, or of whole mind, make out and establish such right or claim to the satisfaction of the said principal officers, then and in such case the said principal officers shall make or cause to be made a fair and reasonable compensation or satisfaction for every such right and claim so made out and established as aforesaid; but such compensation or satisfaction shall not in any case exceed the amount of the purchase money or purchase monies which shall have been paid to and received by the said principal officers for the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, in respect whereof such right or claim shall be so made out as aforesaid, or a proportional part thereof, exclusive of the value of any buildings or improvements which shall have been erected or made thereon for the use of the said ordnance or barrack departments, or for the defence of the realm.

Textual Amendments

- F15** Words repealed (E.W.)(S.) by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), s. 5(1), **Sch. Pt. III** and (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1976 \(c. 12\)](#), **Sch. Pt. X**
- F16** Words repealed (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1976 \(c. 12\)](#), **Sch. Pt. X**
- F17** Word repealed (E.W.)(S.) by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), s. 5(1), **Sch. Pt. III** and (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1976 \(c. 12\)](#), **Sch. Pt. X**

16 Principal officers may authorize persons to survey and mark out lands, and treat with owners for purchase thereof.

It shall be lawful for the principal officers of Her Majesty's ordnance for the time being to enter on, survey, and mark out, or to cause to be surveyed and marked out, any lands, buildings, or other hereditaments or easements wanted for the service of the ordnance department, or for the defence of the realm, or to stop up or divert any public or private footpaths or bridle-roads, and to treat and agree with the owner or owners of such lands, buildings, hereditaments, or easements, or with any person or persons interested therein, either for the absolute purchase thereof, or for the possession or use thereof during such time as the exigence of the public service shall require.

Modifications etc. (not altering text)

- C15** S. 16 excluded by [Land Powers \(Defence\) Act 1958 \(c. 30\)](#), s. 13, **Sch. 2 para. 14**

17 Paths to be made in place of footpaths stopped up.

Provided always that whenever any footpath or bridle-road shall be stopped up as aforesaid, another path or road shall be provided and made in lieu thereof respectively, at the expense of the ordnance department, and at such convenient distance therefrom as to the principal officers of Her Majesty's ordnance for the time being shall seem proper and necessary.

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18 Bodies politic may agree for the sale of lands, &c.

It shall be lawful for all bodies politic or corporate, ecclesiastical or civil, and all . . .^{F18} trustees for charitable or other public purposes, and for all [^{F19}tenants for life and tenants in tail, and for the . . .^{F20}, guardians, trustees, . . .^{F21}, curators, or] attornies of such of the owners or proprietors of or persons interested in any such lands, buildings, or other hereditaments so surveyed and marked out as shall be [^{F22} . . .^{F18}, infants, . . .^{F23}, or]persons beyond the seas, or otherwise incapable of acting for themselves, to contract and agree with such principal officers, either for the absolute sale of such lands, buildings, or other hereditaments, or for the grant of any lease, either for any term of years certain therein, or for such period as the exigence of the public service shall require, and to convey, . . .^{F20}, demise, and grant the same to such principal officers, in trust for Her Majesty accordingly; and all such contracts, sales, conveyances, . . .^{F20}, leases, and agreements shall be valid and effectual in law to all intents and purposes whatsoever.

Textual Amendments

- F18** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**
- F19** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III**
- F20** Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (N.I.) by Statute Law Revision (Northern Ireland) Act 1976 (c. 12), **Sch. Pt. X**
- F21** Word repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**
- F22** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and (S.) by Statute Law (Repeals) Act 1973 (c. 39), s. 1(1), **Sch. 1 Pt. IX**
- F23** Words repealed (E.W.)(S.) by Statute Law (Repeals) Act 1969 (c. 52), s. 5(1), **Sch. Pt. III** and by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

Modifications etc. (not altering text)

- C16** S. 18 amended as to lunatics and idiots (N.I.) by Mental Treatment Act (Northern Ireland) 1932 (c. 15), s. 7(2) and Mental Health Act (Northern Ireland) 1948 (c. 17), s. 73(1)

19 In default of treating, or where the parties do not agree, the persons authorized by Her Majesty may require two justices, &c. to put Her Majesty's officers in possession. Jury to be summoned to value the premises.

In case any such bodies or other persons hereby authorized to contract on behalf of themselves or others as aforesaid, or any other person or persons interested in any such lands, buildings, or other hereditaments which shall be so marked out and surveyed as aforesaid, shall for the space of fourteen days next after notice in writing subscribed by or on behalf of the said principal officers shall have been given to the chief officer or officers of any such body, or to such other persons hereby authorized to contract on behalf of others, or interested themselves, as aforesaid, or left at his, her, or their usual place of abode, refuse or decline to treat or agree, or by reason of absence shall be prevented from treating or agreeing with the said principal officers, or shall refuse to accept such sum of money as shall be offered by the said principal officers as the consideration for the absolute purchase of such lands, buildings, or other hereditaments, or such annual rent or sum as shall be offered for the hire thereof, either for a time certain or for such period as the exigence of the public service may require, then and in such case it shall be lawful for the said principal officers to require two or

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more justices of the peace, or three or more deputy lieutenants (one of whom shall be a justice of the peace), or two or more deputy governors for the county, riding, city, or place where such lands, buildings, or other hereditaments shall be, to put the said principal officers, or any person appointed by them, into immediate possession of such lands, buildings, or other hereditaments; which such justices or deputy lieutenants or deputy governors are hereby required to do, and shall for that purpose issue their warrants under their hands and seals, commanding possession to be so delivered, and shall also issue their warrants to the sheriff of the county, riding, city, or place wherein such lands, buildings, or hereditaments shall be situate, to summon a jury; and every such sheriff is hereby authorized and required to summon and return a jury, properly qualified, of the number of twenty-four, and in the manner required by the laws of England, Ireland, and Scotland respectively, who shall meet at some convenient time and place to be mentioned in such summons, out of whom a jury of twelve shall be drawn, in such manner as juries for the trial of issues joined in Her Majesty's courts at Westminster and Dublin are drawn by law in England and Ireland respectively, and in such manner as juries are drawn by law for any trial in Scotland; and in case a sufficient number shall not appear, the said sheriff shall choose others of the by-standers, or that can speedily be procured, being qualified as aforesaid; and the said jurymen may be challenged by the parties on either side, but not the array; and the said justices, deputy lieutenants, or governors respectively may summon witnesses, and adjourn any such meeting if jurymen or witnesses do not attend; and the jury, on hearing any witnesses and evidence that may be produced, shall on their oaths, (which oaths, as also the oaths of such witnesses, the said justices, deputy lieutenants, or governors respectively are hereby empowered and required to administer,) find the compensation to be paid, either for the absolute purchase of such lands, buildings, or other hereditaments, or for the possession or use thereof, as the case may be . . . ^{F24}

Textual Amendments

F24 Proviso repealed by [Defence \(Barracks\) Act 1935 \(c. 26\)](#) and [S.I. 1964/488](#)

Modifications etc. (not altering text)

C17 [S. 19](#) saved (E.W.)(S.) by [Rent Act 1965 \(c. 75\)](#), [s. 35\(4\)](#)

20 Appeal may be made to the Court of Exchequer, &c. if either party is dissatisfied with the verdict of the jury.

Provided always that if the said principal officers, or any person interested in the lands, buildings, or other hereditaments so marked out and surveyed, shall be dissatisfied with the verdict of any such jury, it shall be lawful for them, or their attornies, in England and Ireland, to apply to the Court of Exchequer at Westminster or Dublin respectively in the term next, and in Scotland to apply within fourteen days after the finding any such verdict to the Court of Session in Scotland in time of session, or lord ordinary on the bills in time or vacation, and to suggest to the said courts or lord ordinary respectively that they have reason to be dissatisfied with such verdict, and forthwith give notice thereof to the said principal officers on the one part, or to the party so interested as aforesaid on the other part (as the case may be); and thereupon, in England and Ireland the proceedings that shall have been had and the verdict of such jury shall be returned into the said courts of Exchequer respectively, and, if it shall appear to the said courts to be proper, such suggestion shall be entered on such proceedings as aforesaid; and a writ shall thereupon, by rule of such court, or order of any judge of such court, be directed to the sheriff of the county where such lands,

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buildings, or other hereditaments shall lie, or, if the same shall lie in two counties to the sheriff of either of such counties, to summon [^{F25}either] a [^{F25}common or special] jury, [^{F25}according to the application that shall have been made in that behalf, and as the court and as such judge shall allow, and] who shall [^{F25}respectively] be qualified, according to law, to appear before the said justice or justices of assize or nisi prius of that county at the next assizes, if the same shall not happen sooner than twenty-one days after such suggestion, otherwise at the next succeeding assizes, and the compensation to be paid either for the absolute purchase or for the possession or use of such lands, buildings, or other hereditaments (as the case shall be) shall at such assizes be ascertained by such jury, in like manner as any damages may be inquired of upon any inquisition or inquiry of damages by any jury before any judge of assize or nisi prius, and the verdict of such jury shall be returned to the said Court of Exchequer, and shall be final and conclusive; and in Scotland, if it shall appear proper to the said Court of Session or lord ordinary, upon such application, so to do, the said court or lord ordinary shall order and direct the sheriff of the county where such lands, buildings, or other hereditaments shall lie, or, if the same shall lie in two counties, to the sheriff of either of such counties, to summon another jury in the manner in which juries are summoned in Scotland properly qualified according to law, to appear before the lords or lord of justiciary at the next circuit, if the same shall not happen sooner than twenty-one days after such application, otherwise at the next succeeding circuit; and the compensation as aforesaid for the lands, buildings, or other hereditaments (as the case shall be) shall at such circuit be ascertained by a jury drawn from the jury summoned as aforesaid in such manner as juries are drawn in Scotland, under the direction of the said lords or lord of justiciary aforesaid, and the verdict of such last-mentioned jury shall be final and conclusive, without being subject to review or challenge of any kind: Provided always, that it shall be lawful for the court that shall have allowed such inquiry, on any application made within four days after the commencement of the succeeding term, or session if in Scotland, to order any new trial in relation thereto.

Textual Amendments

F25 Words repealed (N.I.) by [Statute Law Revision Act \(Northern Ireland\) 1954 \(c. 35\)](#)

21 **Jury may ascertain the proportion to be paid out of compensation for land to lessees, &c.**

Provided always, that it shall be lawful for any jury impanelled before any justice of the peace or magistrate, or deputy lieutenant or deputy governor, or before any judge of assize or nisi prius, to ascertain the compensation to be paid for any lands, buildings, or other hereditaments under this Act, and they are hereby required to ascertain and settle the proportion to be paid out of such compensation to any persons having any interest as lessees or tenants at will, or otherwise, in any such lands, buildings, or other hereditaments, and the proportion to be paid out of such compensation shall be returned on the verdict: Provided also, that where any such inquiry before any judge of assize or nisi prius shall be had on the application of any such lessee or tenant at will, or other person having any inferior interest in any such lands, buildings, or other hereditaments, who may have been dissatisfied with the proportion of compensation settled by the jury to be paid in respect of such interest, it shall not be lawful for the jury in any such case to alter the amount of the entire compensation awarded by any former verdict to be paid for such lands, buildings, or other hereditaments, but only the proportion thereof to be paid to the person or persons having separate interests therein;

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and it shall not be lawful for any jury on any such inquiry as aforesaid had before any judge of assize or nisi prius, as to any such compensation, on the application of any such officer as aforesaid, in any case in which the whole compensation awarded by them shall be the same as the whole compensation awarded by the former jury, to alter the proportion that shall have been settled by any such former jury, as to any separate interests in any such lands, buildings, or other hereditaments.

22 Court to require the party to give security for costs.

Provided also, that it shall be lawful for the court or judge or lord ordinary making any such rule or order to require that the party on whose application the same shall be made shall give such security as shall to such court, judge, or lord ordinary seem proper, for payment of costs, under such circumstances as shall be specified in any rule or order made for that purpose.

23 Lands not to be taken for the defence of the realm without consent of the owners unless in certain cases.

Provided always, that no such lands, buildings, or other hereditaments shall be so taken without the consent of the owner or owners thereof, or of any such person or persons as aforesaid, acting for or on the behalf of the owner or owners thereof, unless the necessity or expediency of taking the same shall be first certified by the lord lieutenant, or two of the deputy lieutenants, or by the governor or two deputy governors of the county, riding, city, or place in which such lands, buildings, or other hereditaments lie, and unless such lands, buildings, or other hereditaments be authorized by a warrant of the Treasury, or unless the enemy shall have actually invaded the United Kingdom at the time when such lands, buildings, or other hereditaments shall be so taken.

Modifications etc. (not altering text)

C18 S. 23 saved by [Lands Clauses Consolidation Acts Amendment Act 1860 \(c. 106\)](#), s. 7

24 Erections on lands taken for a temporary purpose to be removed before the lands are restored to the owner, and compensation shall be made for the injury done. In case of disagreement, how compensation shall be settled. Act not to affect any agreement between the parties.

In all cases where any lands, buildings, or other hereditaments shall have been taken under the provisions of the said recited Act of the forty-fourth year of the reign of His Majesty King George the Third, or shall be taken under the provisions of this Act, for any term of years, or for such period only as the exigencies of the public service shall require, it shall be lawful for the said principal officers, notwithstanding anything hereinbefore contained, or any other law to the contrary thereof notwithstanding, at any time before the possession thereof shall be delivered up to the owner or owners thereof, or other person or persons acting on his, her, or their behalf, to take down and remove all such buildings or other erections which shall or may have been built or erected thereon for the public service, after the same was or were so taken as aforesaid, and to carry away the materials thereof, making such compensation to the owner or owners of such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf, for the damage or injury which may have been done thereto or to the soil thereof, by the erection of any such buildings, or otherwise

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in consequence of the same having been occupied for the public service, as the said principal officers shall think reasonable, and as shall be agreed upon in that behalf; and if such owner or owners, or other person or persons acting on his, her, or their behalf, shall not be willing to accept the compensation so offered, it shall be lawful for the said principal officers to apply to and require two justices of the peace of the county, riding, city, or place to settle and ascertain the compensation which ought to be made for such damage or injury as aforesaid, and such justices shall settle and ascertain the same accordingly, and shall grant a certificate thereof; and the amount of such compensation, so settled and ascertained and certified, shall forthwith be paid by the treasurer, accountant, or other proper officer for the time being of the office or department for the use of which such lands, buildings, or other hereditaments shall have been taken to the person or persons entitled thereto: Provided always, that nothing in this Act contained shall extend or be construed to extend to alter, prejudice, or affect any agreement which hath been or shall or may be entered into by the said principal officers with any owner or owners of any such lands, buildings, or other hereditaments, or other person or persons acting on his, her, or their behalf, in relation to any such buildings or erections; but every such agreement shall remain valid and effectual in like manner as if this Act had not been passed.

25 Purchase money payable to bodies politic, &c., how to be invested.

Where any money shall have been or shall be agreed, or shall have been or shall be required by the verdict of any jury, to be paid or given by the said principal officers, for the absolute Purchase or exchange of any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, grounds, tenements, or hereditaments, or of any reversion as aforesaid, or of the . . . ^{F26} purchase of any other interest belonging to any such body, or other person or persons under any disability or incapacity, or not having the absolute interest therein, the said money, if the same shall amount to or exceed the sum of two hundred pounds, shall be paid into the hands or in the name of the Remembrancer or other proper officer of Her Majesty's Court of Exchequer at Westminster or Dublin, or the Queen's Remembrancer or other proper officer of the said court at Edinburgh respectively, for the time being, for the use and benefit of the owners and proprietors of such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments; and such remembrancer, Queen's Remembrancer, or other proper officer respectively is hereby authorized and required to receive or accept and to give a discharge for the same, and upon the acceptance or receipt thereto to sign a certificate to the barons or judges of the said Court of Exchequer under his hand, purporting and signifying that such money or other consideration was received or accepted by and paid to him in pursuance of this Act, for the use and benefit of such owners or proprietors as shall be named in such certificate; and the said certificate shall be filed or deposited in the said Court of Exchequer at Westminster, Dublin, or Edinburgh respectively, and a true copy thereof, signed by the said Remembrancer, Queen's Remembrancer, or other proper officer respectively of such court, shall and may be read and allowed as evidence for the purposes herein-after mentioned; and the said Remembrancer, Queen's Remembrancer, or other proper officer respectively is hereby required upon receipt of any such sum or sums of money as aforesaid, to pay the same into the Bank of England, or Bank of Ireland, or Bank of Scotland, or Royal Bank of Scotland, as the case may require; and immediately upon the filing or depositing of such certificate the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments shall be and become vested in the said principal officers of the ordnance for the time being, for the service of the said ordnance department, or for the defence of the realm, in trust for Her Majesty.

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Textual Amendments

- F26** Words repealed (E.W.)(S.) by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), s. 5(1), **Sch. Pt. III** and (N.I.) by [Statute Law Revision \(Northern Ireland\) Act 1976 \(c. 12\)](#), **Sch. Pt. IX**

Modifications etc. (not altering text)

- C19** [S. 25](#) amended by [Queen's Remembrancer Act 1859 \(c. 21\)](#), s. 8; applied by [Defence Act 1860 \(c. 112\)](#), s. 20

26 **Barons &c., of Exchequer, to make order for the investment of such purchase money.**

The barons or judges of her Majesty's Court of Exchequer at Westminster, Dublin, or Edinburgh, of the degree of the coif, for the time being, or any one or more of them, shall be and they or he are or is hereby authorized and empowered, in a summary way, upon motion or petition for or on behalf of any person or persons interested in or entitled to the benefit of the money so paid to and received by the said Queen's Remembrancer or other proper officer respectively, or the interest or produce thereof, and upon reading the certificate directed to be signed by the said Remembrancer, Queen's Remembrancer, or other proper officer respectively concerning the same as aforesaid, and receiving such further satisfaction as they or he shall think necessary, to make and pronounce such orders and directions for paying the said money or any part of the same, [^{F27}or for placing out such part thereof as shall be principal in the public funds, or upon government or real securities,] and for payment of the dividends or interest thereof, or any part thereof, to the respective persons entitled to receive the same, or for laying out the principal or any part thereof, in the purchase of other lands or hereditaments, to be conveyed and settled to, for, and upon the same uses, trusts, intents, or purposes, as the said messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments so purchased or taken, stood settled at the time of the payment of such money as aforesaid, or as near thereto as the same can be done, or otherwise concerning the disposition of the said money or any part thereof, and the interest of the same, or any part thereof, for the benefit of the person and persons entitled to and interested in the same respectively, or for appointing any person or persons to be a trustee or trustees for all or any of such purposes, as the said court shall think just and reasonable.

Textual Amendments

- F27** Words repealed (E.W.)(N.I.) by [Administration of Justice Act 1965 \(c. 2\)](#), **Sch. I**

Modifications etc. (not altering text)

- C20** [S. 26](#) applied by [Defence Act 1860 \(c. 112\)](#) s. 20

27 **Investment of purchase money when less than 200l.**

Provided always, that in case such purchase money as is lastly herein-before mentioned shall be less than the sum of two hundred pounds, and shall exceed the sum of twenty-pounds, then and in all such cases the same shall, at the option of the person or persons for the time being entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands,

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tenements, or hereditaments, so purchased, or of his, her, or their guardian or guardians, committee or committees, in case of infancy or lunacy, to be signified in writing under their respective hands, be paid into the hands of the said remembrancer, Queen's remembrancer, or other public officer respectively of the said Court of Exchequer, in order to be applied in manner herein-before directed; or otherwise the same shall be paid, at the like option, to three trustees, to be nominated by the person or persons making such option, and approved of by the said principal officers, or any three or more of them, such nomination or approbation to be signified in writing, under the hands of the nominating and approving parties, in order that such principal money may be invested in the purchase of stock in the public funds, and that such stock, when purchased, and the dividends arising therefrom, may be applied in manner herein-before directed, so far as the case be applicable, without obtaining or being required to obtain the order, direction, or approbation of the said Court of Exchequer.

Modifications etc. (not altering text)

C21 S. 27 applied by [Defence Act 1860 \(c. 112\)](#), s. 20

28 Investment of purchase money when less than 20l.

Provided always, that in case such purchase money shall be less than twenty pounds, then and in all such cases the same shall be applied to the use of the person or persons who would for the time being be entitled to the rents and profits of the messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments, so purchased, in such manner as the said principal officers, or any three or more of them, shall think fit, or in case of infancy or lunacy, then to his, her, or their guardian or guardians, committee or committees, for the use and benefit of such person or persons entitled respectively.

Modifications etc. (not altering text)

C22 S. 28 applied by [Defence Act 1860 \(c. 112\)](#), s. 20

[^{F28}29 Stock and securities vested in remembrancer, &c. shall, in case of death or removal, vest in the successor.

Upon the death or removal of any such Remembrancer, Queen's Remembrancer, or other proper officer respectively, all stock and securities vested in him by virtue of this Act shall vest in the succeeding Remembrancer, Queen's Remembrancer, or other proper officer respectively, for the purpose herein-before mentioned, without any assignment or transfer; and all moneys paid into the said banks respectively in pursuance of this Act, or remaining in the hands of any Remembrancer, Queen's Remembrancer, or other proper officer respectively, at his death or removal, and not invested in the funds or placed out on securities as aforesaid, shall be paid over to the succeeding Queen's Remembrancer or other proper officer respectively for the time being.]

Textual Amendments

F28 S. 29 repealed (N.I.) by [Judicature \(Northern Ireland\) Act 1978 \(c. 23, SIF 38\)](#), Sch. 7

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Modifications etc. (not altering text)

C23 s. 29 applied by [Defence Act 1860 \(c. 112\)](#), s. 20

30 Persons in possession deemed entitled to the premises until the contrary shall be shown.

Provided always, that where any question shall arise touching the title of any person to any money to be paid into the Bank of England, or Bank of Scotland, or Royal Bank of Scotland, in the name and with the privity of the Remembrancer of the Court of Exchequer, or the Queen's Remembrancer, or other proper officer, pursuant to the directions of this Act, or to [^{F29}any bank annuities][^{F30}any investments] to be purchased with any such money, or the dividends or interest of [^{F29}any such bank annuities][^{F30}any such investments or money], the person or persons who shall have been in possession of the property so purchased at the time of the purchase shall be deemed to have been lawfully entitled to such property according to such possession, until the contrary shall be shown to the satisfaction of the said Court of Exchequer, and the dividends or interest of [^{F29}the bank annuities to be purchased with such money, and also the capital of such bank annuities][^{F30}money or the investments to be purchased therewith, and also the investments themselves], shall be paid, applied, and disposed of accordingly, unless it shall be made to appear to the said court that such possession or receipt was wrongful, and that some other person or persons was or were lawfully entitled to such property.

Textual Amendments

F29 Words have now ceased to have effect in England and Wales

F30 Words substituted (E.W.) by [Administration of Justice Act 1965 \(c. 2\)](#), Sch. 1

Modifications etc. (not altering text)

C24 S. 30 applied by [Defence Act 1860 \(c. 112\)](#), s. 20

31 For enrolment of deeds relating to lands, &c. in England and Wales.

It shall be lawful for the said principal officers to cause all or any deeds, decrees, evidences, or writings, or other instruments whatsoever, relating to any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, in England or Wales, now or hereafter vested in the said principal officers, to be enrolled in the office of the Remembrancer of Her Majesty's Court of Exchequer, or in the High Court of Chancery; and such fees shall be paid for such enrolment as the Treasury shall from time to time appoint, not exceeding such fees as have been used and accustomed to be taken.

Modifications etc. (not altering text)

C25 Jurisdiction of Court of Chancery now exercisable by High Court of Justice (E. W.); [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 18

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32 Deeds not required to be acknowledged,&c.

Any rule or practice requiring deeds to be acknowledged or requiring an affidavit or declaration to be made of the due execution of any deeds before enrolment, shall not apply to any deed, decree, evidence, or writing, or other instrument whatsoever by this Act required to be enrolled in Her Majesty's Courts of Chancery or Exchequer in England or Ireland.

Modifications etc. (not altering text)

C26 Jurisdiction of Court of Chancery now exercisable by High Court of Justice (E.W.) and by Chancery Division of High Court of Justice in Northern Ireland (N.I.): [Supreme Court of Judicature Act \(Ireland\) 1877 \(c. 57\)](#), [ss. 4, 21\(1\), 36](#), [Government of Ireland Act 1920 \(c. 67\)](#), [ss. 38, 40, 41](#) S.R. & O. 1921/1802, 1804 (Rev. XVI, pp. 954, 967: 1921, pp. 1332, 422) and [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), [s. 18](#)

33 Office copies of enrolments of such deeds, &c. admissible in evidence.

A copy of the enrolment of every such deed, decree, writing, or other instrument as aforesaid, signed by the proper officer having the custody of such enrolment, and proved upon oath to be a true copy, shall for every purpose whatsoever be sufficient evidence of the contents of such deed, decree, writing, or other instrument, in all courts of law and equity, and on every other occasion whatsoever shall be of the same force and effect, to all intents and purposes, as such deed, decree, writing, or other instrument would be if the same were respectively produced and shown forth.

34 ^{F31}

Textual Amendments

F31 [S. 34](#) repealed (E.W.)(S.) by [Crown Proceedings Act 1947 \(c. 44\)](#), [Sch. 2](#) and (N.I.) by [S.I. 1949/1836](#) (1949 I, p. 1261)

35 ^{F32}

Textual Amendments

F32 [Ss. 1–4, 11, 35](#) and [38](#) repealed by [Statute Law Revision Act 1874 \(No. 2\)](#)(c. 96)

36 Principal officers empowered to give notices, make claims, and authorize entries, &c.

It shall be lawful for the said principal officers for the time being, and they are hereby authorized and empowered, to give any notice, make any claim or demand, and to depute or authorize any person or persons to make an entry, which shall be requisite or expedient to be given or made by or on behalf of Her Majesty with a view either to compel any tenant, lessee, or occupier of any part or parts of the said possessions of the crown which are or may be by law vested in the principal officers of Her Majesty's

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ordnance, to quit or deliver up the possession thereof, or to compel the performance of any covenant, contract, or engagement in relation thereto, or to recover possession on non-performance of any covenant, contract, or agreement or to compel the payment of any sum of money which ought to be paid in respect thereof, and to give any other notice, make any other claim or demand, and depute any person or persons to make any other entry which shall or may be requisite or expedient to be given or made by or for or on behalf of Her Majesty touching any of the said possessions which are or may be by law vested in the principal officers of Her Majesty’s ordnance; and every such notice, claim or demand which shall be given or made in writing under the hands of the said principal officers for the time being, or any two of them, for any of the purposes aforesaid, and every entry which shall be made by any person or persons deputed or authorized by the said principal officers to make the same, on behalf of Her Majesty, into or upon any of the said estates or possessions, shall be good, valid, and effectual to all intents and purposes whatsoever.

37 Principal officers exempted from personal responsibility.

Nothing contained in this Act, or to be contained in any covenant, contract, lease, or other instrument hereby authorized to be entered into, made, taken, or executed by the said principal officers or any of them, shall extend to charge the person or persons of all or any of the said principal officers executing any such covenant, contract, lease, or other instrument, or the heirs, executors, or administrators of the same principal officers, or any of them, or their or any of their own proper lands, tenements, goods, or chattels, with or for the performance of all or any of the covenants, conditions, or agreements in the same covenant, contract, lease, or other instrument to be contained on the part of the same principal officers, or any of them; nor shall any officer of Her Majesty’s ordnance be personally liable, nor shall the property of any such officer be liable to any legal process or execution in such actions, suits, arbitrations, or other proceedings as aforesaid.

38 F33

Textual Amendments
F33 Ss. 1–4, 11, 35 and 38 repealed by [Statute Law Revision Act 1874 \(No. 2\)](#)(c. 96)

39 Act not to vest property belonging to Her Majesty in the officers of the ordnance.

Provided always, that nothing contained in this Act, or in any of the Acts herein recited or referred to, shall extend or be deemed or construed to extend to vest in the principal officers of Her Majesty’s ordnance, or their successors, in any manner or for any purpose whatsoever, any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, or hereditaments, part or parcel of the hereditary possessions and land revenues of Her Majesty in right of Her crown, or in right of Her Duchy of Lancaster, or to divest, defeat, destroy, lessen, abridge, impair, or in any manner abrogate, diminish, or prejudice the estate, right, title, interest, power, or authority of Her Majesty, in, to, out of, or over any part or parcel of the hereditary possessions or land revenues of Her crown, or of Her Duchy of Lancaster notwithstanding the same or any part thereof may have been heretofore set apart or

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may hereafter be permitted to be set apart for the use and service or placed under the charge of the ordnance or late barrack department, or either of such departments, and notwithstanding the same may have been heretofore or may hereafter be permitted to be set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty, or any of Her royal predecessors for the use and service of the said departments or either of them, or for military defences, and notwithstanding the same may have been heretofore or may hereafter be held, used, or occupied for the use and service of the said departments or either of them, or for the defence and security of the realm, or otherwise howsoever; but the estate, right, title, interest, power, and authority of Her Majesty, in and to all and every parts and part of the hereditary possessions and land revenues of Her crown and of Her Duchy of Lancaster, shall remain, continue, and be good, valid, and effectual and in full force, to all intents and purposes; anything in this Act or in any of the said recited Acts to the contrary thereof in anywise notwithstanding .

40 F34

Textual Amendments

F34 S. 40 repealed by [Crown Estate Act 1961 \(c. 55\)](#), [Sch. 3 Pt. II](#)

41 Act not to vest any property belonging to the Prince of Wales in the officers of the ordnance.

Provided always, that nothing in this Act contained shall vest or be construed to vest in the principal officers of Her Majesty's ordnance for the time being any estate or interest in any messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements, and hereditaments belonging to His Royal Highness Albert Edward Prince of Wales and Duke of Cornwall, or other, the personage who may hereafter for the time being be entitled to the revenues of the Duchy of Cornwall, in right or in respect of the said Duchy, other than or different from the estate and interest under or by virtue of which the principal officers for the time being of Her Majesty's ordnance held the same at the time of the passing of this Act; and that nothing in this Act contained shall extend or be construed to extend to affect, alter, prejudice, derogate from the estate, right, title, interest, privileges or authority of His said Royal Highness or other the personage who may hereafter for the time being be entitled to the revenues of the Duchy of Cornwall in right or in respect of the said duchy or the possessions thereof, nor at any time be admitted in any court of law or equity or otherwise construed to alter or affect in any manner the tenure upon which any such messuages, buildings, castles, forts, lines, or other fortifications, manors, lands, tenements and hereditaments, were previously to the passing of this Act held or set apart for or placed under the charge of any person or persons acting under the authority of or in trust for Her Majesty or of Her royal predecessors for the use and service of the ordnance or late barrack department, or for the defence or security of the realm, not to alter or affect in any manner whatever such estate, right, title, interest, or authority of His said Royal Highness or other the personage aforesaid in right or in respect of His or Her said Duchy of Cornwall, or the possessions thereof.

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