

ARTERIAL DRAINAGE ACT 1925

- LONG TITLE

An Act to make provision for the drainage of land and the improvement of land by drainage. [11th July, 1925.]

BE IT ENACTED BY THE OIREACHTAS OF SAORSTAT EIREANN AS FOLLOWS:—

- SECT 1 Interpretation.

1.—(1) In this Act the expression "the Commissioners" means the Commissioner of Public Works in Ireland; the word "drainage" includes drainage by pumping either alone or in conjunction with other means, and all cognate words shall be construed accordingly; all expressions to which special meanings are assigned by the Local Government (Ireland) Act, 1898 have the special meanings so assigned to them respectively. (2) In all references in this Act to lands drained or proposed to be drained, or to lands improved or benefited by drainage or proposed to be so improved or benefited, the word "lands" shall include lands, buildings, and premises of every description, whether urban or rural.

- SECT 2 Rated occupiers may petition county council.

2.—(1) Any six or more persons being rated occupiers of lands which are liable to be flooded or injured by water or which are capable of being improved by drainage or being persons upon trust for whom or for whose benefit any such lands are held by the rated occupiers thereof may apply to the council of the county or to the respective councils of the several counties in which such lands are situate to have drainage works executed for the purpose of draining or improving such lands and to have such lands, either together with or without other lands in the neighbourhood thereof, constituted to be a separate drainage district. (2) Every application to the council of a county under this section shall be made by petition presented to the council and every such petition shall be in writing in, such form as shall be prescribed by the Commissioners and shall state in general terms the drainage works which it is thereby proposed should be executed and shall have annexed thereto a map showing the lands thereby proposed to be constituted a separate drainage district. (3) Where the lands proposed by any such petition to be constituted a separate drainage district are situate in more than one county, the petition shall be presented to the council of every county in which any part of such lands is situate notwithstanding that the portion of such lands occupied by the petitioners may not extend into every such county.

- SECT 3 Procedure by county council on receipt of petition.

3.—(1) Every council to which a petition is presented under this Act shall refer such petition to the county surveyor for his report on the general merits of the proposals contained in the petition. (2) For the purpose of making such report as aforesaid the county surveyor and his assistants shall be entitled at all reasonable times to enter upon the lands referred to in the petition and such other lands in the neighbourhood thereof as he or they shall think necessary and also any premises on any such lands and there to make such investigations and do such things as shall appear to him or them to be necessary for the purpose of making such report. (3) Upon receiving the report of the county surveyor on such petition the council, at a meeting of which not less than seven days' notice has been given to each member, shall consider such petition and such report and may, if they think fit, pass a resolution— (a) either approving of the proposals contained in the petition or declaring that such proposals require further investigation, and in either case (b) requesting the Commissioners to examine such proposals and to consider whether a drainage scheme should be, prepared and a separate drainage district constitute to give effect to such

proposals, and (c) undertaking that if the lands referred to in the petition or any part thereof, either together with or without other lands in the neighbourhood thereof, are constituted a separate drainage district the council would maintain the drainage works constructed in such drainage district so far as the same are situate in their county and would collect and pay the terminable annuity, drainage rates, and other moneys collectable or payable by them in respect of the construction or maintenance of such works.

(4) Where any such resolution as aforesaid is duly passed by the council of a county, the secretary of the council shall forthwith send to the Commissioners a copy of such resolution and of the petition (with the map annexed thereto) to which the resolution relates. (5) Where the council of a county, having considered any such petition and report, do not pass any such resolutions as aforesaid the secretary of the council shall forthwith send a copy of the petition (with the map annexed thereto) and of the report to the Commissioners. (6) Where any such petition is presented to the councils of two or more counties pursuant to this Act such councils may combine for the purpose of considering such petition and, in lieu of referring the petition to the county surveyor of each such county, may refer the petition to the county surveyor of one such county and in such case every such council may act under this section on the report of such county surveyor. (7) Any county council or combination of county councils, in lieu of referring such petition to a county surveyor, may with the sanction of the Minister for Local Government and Public Health refer the petition to some other qualified engineer nominated by such council or councils, and in such case all references in this section to a county surveyor shall be construed and have effect as references to such qualified engineer and the remuneration of such qualified engineer shall be paid out of the county fund of the council or in such proportions as the Minister for Local Government and Public Health may direct out of the several county funds of the councils by whom he is appointed.

- SECT 4 Examination of petition by Commissioners.

4.—(1) When the Commissioners have received pursuant to this Act either— (a) a copy of a resolution and petition from the secretary of the council of the county in which the lands proposed in such petition to be constituted a separate drainage district are wholly situate, or (b) copies of resolutions and petitions from the secretary of the council of every county in which any part of the lands proposed in such petition to be constituted a separate drainage district is situate, the Commissioners shall appoint a qualified engineer and, if they so consider necessary, also a person having experience in the valuation of land to examine and report to the Commissioners upon the proposals contained in such petition. (2) Every person appointed by the Commissioners to report to them under this section in respect of a petition shall be entitled at all reasonable times to enter with assistants and workmen upon the lands referred to in such petition and such other lands in the neighbourhood thereof as he shall think necessary and also any premises on any such lands and there to make such investigations and do such things as shall appear to him to be necessary for the purposes of his report.

- SECT 5 Procedure when Commissioners decide against petition.

5.—If the Commissioners, having considered the resolution or resolutions and petition of which copies are sent to them by the secretary of a county council or secretaries of county councils pursuant to this Act and the reports of such persons as they shall have appointed to report on the proposals contained in such petition, are of opinion that the circumstances are not such as to justify the preparation of a drainage scheme or the constitution of a separate, drainage district they shall so inform such county council or county councils and shall at the same time communicate to such council or councils the reasons on which such opinion is based.

- SECT 6 Procedure where Commissioners decide for petition.

6.—(1) If the Commissioners, having considered a resolution or resolutions and petition of which copies are sent to them by the secretary of a county council or secretaries of county councils pursuant to this Act and the reports of such persons as they shall have appointed to report on the proposals contained in such petition, are of opinion that the circumstances are such as to justify the preparation of a drainage scheme and the constitution of a separate drainage district to effect the objects of such proposals they shall so

inform such county council or county councils and shall prepare a drainage scheme accordingly. (2) Every drainage scheme prepared by the Commissioners under this Act shall show either in the body of the scheme or by means of appropriate maps, drawings, plans, sections, and schedules annexed thereto the following matters, that is to say:— (a) the rivers, streams, or waters proposed to be dealt with and the lands proposed to be drained or improved, and (b) the works proposed to be executed, and (c) the lands and premises proposed to be compulsorily acquired, the easements, water-rights, and other rights proposed to be compulsorily acquired, restricted, terminated, or otherwise interfered with, and the roads and bridges (whether public or private) proposed to be diverted, removed, or otherwise interfered with, and (d) the rated occupiers of the several lands proposed to be drained or improved, the respective values of such several lands at the time of the preparation of the scheme, and the probable amount by which such values would respectively be increased by the execution of the proposed works, and (e) the reputed proprietors, owners, and rated or other occupiers of the several lands and premises, easements, water-rights, and other rights, private roads and bridges proposed to be compulsorily acquired, restricted, terminated or otherwise interfered with or affected, and an estimate of the compensation which would be payable to such proprietors, owners and occupiers respectively on account of such compulsory acquisition, restriction, termination, interference, or affection, and (f) the area to be constituted a separate drainage district on the completion of the proposed works, and (g) an estimate of the cost of the execution of the proposed works and of the expenses generally of carrying out, the scheme, and (h) the amount which the Minister for Finance proposes to contribute out of moneys to be provided by the Oireachtas towards the cost and expenses of carrying out the scheme. (3) Where a drainage scheme is carried out and a separate drainage district constituted pursuant thereto, the expenses incurred by the Commissioners in considering and examining the resolution or resolutions and the petition and the proposals contained therein and in preparing the drainage scheme shall be part of the general expenses of carrying the scheme into execution and shall be paid accordingly. (4) Where a drainage scheme is for any reason not fully carried out and no separate drainage district is constituted in pursuance thereof the expenses incurred by the Commissioners in considering and examining the resolution or resolutions and the proposals contained therein and in preparing the drainage scheme and in the carrying out of the scheme so far as the same is actually carried out shall be defrayed as to two-thirds thereof out of moneys to be provided by the Oireachtas and as to one-third thereof either (as the case may be) by the county council by which the resolution was passed or by the several county councils by which the resolutions were passed in such proportions as shall be directed by the Minister for Local Government and Public Health, and in either case out of such funds and by means of such rate as the said Minister shall direct.

- SECT 7 Publication of notices of drainage scheme.

7.—(1) When a drainage scheme has been prepared by the Commissioners under this Act, the Commissioners shall— (a) publish by advertisement in the *Iris Oifigiúil* and one or more newspapers circulating in the district to which the scheme relates a notice stating that the scheme has been made, and the townlands to which it relates, and naming a convenient place where the scheme (with all maps and other documents annexed thereto) or a copy thereof can be inspected, and (b) serve on all rated occupiers of lands proposed in the scheme to be drained or improved a copy of the notice to be published in the *Iris Oifigiúil* pursuant to the foregoing paragraph and also a notice requiring the rated occupier on whom the same is served to inform the Commissioners in the manner and within the time (not being less than one month) therein specified whether he assents to or dissents from the scheme and whether he has any, and if so what, objection to the, scheme or any map or other document annexed thereto, and (c) serve on all reputed proprietors, owners, and occupiers of lands, rights, or other property proposed in the scheme to be compulsorily acquired, interfered with, or otherwise affected a copy of the notice to be published in the *Iris Oifigiúil* as aforesaid and also a notice informing such proprietor, owner, or occupier that the scheme proposes the compulsory acquisition of or interference with some land, right, or other property (which interference (if any) and property shall be fully described in the notice) owned or occupied by him and requiring him, if he has any objection to the scheme or any map or other document annexed thereto, to communicate such objection to the Commissioners in the manner and within the time (not being less than one month) therein specified, and (d) serve on the local authority charged with the maintenance of any public road or bridge proposed in the scheme to be diverted, removed, or otherwise interfered with a copy of the notice to be published in the *Iris Oifigiúil* as aforesaid and also a notice informing, such local

authority of the diversion, removal or other interference so proposed. (2) Every notice and other document to be served under this section may be served by sending the same by prepaid post in an envelope addressed to the person to be served therewith at his usual or last-known address, or (where no such address is known) at the lands or the place of situation of the right or property to which the notice relates, and every notice or other document so served shall be deemed to be served at the time at which the envelope containing the same would be delivered at the address named thereon in the ordinary course of post.

- SECT 8 Objections to drainage.

8.—(1) The Commissioners shall in due course examine the communications received by them from rated occupiers of lands proposed in the drainage scheme to be drained or improved and shall ascertain the number of such occupiers who in the manner and within the time specified in the notices served on them by the Commissioners have dissented from the scheme (which occupiers are hereinafter referred to as "dissenting occupiers"), and shall further ascertain the aggregate value of the lands occupied by dissenting occupiers which are proposed in the scheme to be drained or improved, and, if such aggregate value is more than half the total value of all the lands proposed in the scheme to be drained or improved, the Commissioners shall take no further steps in regard to the drainage scheme but they may if they so think fit prepare a new or a modified drainage scheme to effect the objects or some of the objects of the proposals contained in the petition and in such case the provisions of this Act (including this section) shall apply to such new or modified scheme as fully as they apply to an original drainage scheme. (2) If the aggregate value of the lands occupied by dissenting occupiers which are proposed in the scheme to be drained or improved is equal to or less than half the total value of all the lands proposed in the scheme to be drained or improved, the Commissioners shall examine the objections (if any) to the scheme sent by rated occupiers of lands proposed in the scheme to be drained or improved or by reputed proprietors, owners, or occupiers of lands, rights, or property proposed in the scheme to be compulsorily acquired, interfered with, or otherwise affected to the Commissioners in the manner and within the time specified in the notices served under this Act, and the Commissioners may reject any such objections which appear to them to be merely frivolous or vexatious. (3) If in such examination of communications it appears that there are no such objections or all such objections are either rejected or withdrawn the Commissioners shall present the drainage scheme to the Minister for Finance for confirmation, but if on such examination it appears that there is any such objection which is not rejected or withdrawn, the Commissioners shall cause a public inquiry into such objections to be held as hereinafter provided. (4) The value of any land for the purposes of this section shall be the value thereof as stated in the drainage scheme.

- SECT 9 Inquiry in respect of objections.

9.—(1) A public inquiry in respect of objections to a drainage scheme shall be held by the person appointed for the purpose, by the Commissioners and at such time and place as the Commissioners shall direct, and public notice of the holding of such inquiry shall be given in such manner as the Commissioners think proper and the Commissioners shall also send by prepaid post special notice of the holding of the inquiry to the persons who have made the objections in respect of which the inquiry is held. (2) The following persons shall be entitled to appear and be heard (in person or by solicitor or counsel) and adduce evidence at the inquiry, that is to say:— (a) the several persons who have made the objections in respect of which the inquiry is held, and (b) any of the petitioners on whose petition the drainage scheme was prepared, and (c) the county council or several county councils on whose resolution or resolutions the drainage scheme was prepared, and (d) any other person interested in the drainage scheme whom the person holding the inquiry thinks fit to hear. (3) The person holding such inquiry as aforesaid shall at the conclusion thereof report thereon to the Commissioners, and the Commissioners having considered such report may make such alterations (whether by way of variation, addition, or omission) in the drainage scheme as they think proper and shall then present the drainage scheme to the Minister for Finance for confirmation. (4) The costs and expenses incurred by the Commissioners in holding any such inquiry shall be deemed to be part of the expenses of the preparation of the drainage scheme by the Commissioners.

- SECT 10 Confirmation of drainage scheme by Minister for Finance.

10.—(1) A drainage scheme presented by the Commissioners to the Minister for Finance for confirmation shall be accompanied by such recommendations as the Commissioners shall think fit to make in relation to the confirmation or refusal of confirmation of the scheme or any part thereof, and the Minister for Finance having considered such recommendations may if he thinks fit by order confirm the scheme either without alteration or with such alterations (whether by way of variation, addition, or omission) as he thinks proper to make therein, or may refuse to confirm the scheme. (2) Within one month after the making of an order confirming, a drainage scheme under this section the Commissioners shall serve a copy of the order on the several reputed proprietor, owners, and rated or other occupiers of all lands, rights, and other property proposed in the scheme to be compulsorily acquired, interfered with, or otherwise affected.

- SECT 11 Commissioners to carry out drainage scheme when confirmed.

11.—When an order has been made by the Minister for Finance under this Act confirming a drainage scheme the Commissioners shall proceed to carry out the scheme and for that purpose the order shall operate to confer on the Commissioners power— (a) to construct, execute, and complete the works specified in the scheme with such reasonable additions, omissions, variations, and deviations as shall in the course of the work be found necessary, and (b) to enter on any land or premises and there to do all such acts and things as shall be reasonably necessary for or incidental to the construction, execution, or completion of the works with such additions, omissions, variations, and deviations as aforesaid, and (c) to acquire compulsorily the several lands and premises, easements, water-rights, and other rights proposed in the scheme to be so acquired, and, if the Commissioners think fit so to do, to enter on any such lands or premises or exercise any of such easements, water-rights, and other rights at any time after the confirmation of the drainage scheme and before the conveyance or ascertainment of price of such lands, premises, easements, or rights, and (d) to restrict, terminate, or otherwise interfere with any easements, water-rights, or other rights proposed in the scheme to be compulsorily restricted, terminated, or interfered with, and to divert, remove, or otherwise interfere with any roads or bridges proposed in the scheme to be diverted, removed, or interfered with, and, if the Commissioners so think fit, to do any of the things aforesaid at any time after the confirmation of the drainage scheme and before any conveyance or ascertainment of compensation in respect thereof, and (e) to do all such other acts and things as in the opinion of the Commissioners shall be necessary or proper for or reasonably incidental to the due carrying out of the scheme and are not specifically provided for by this Act.

- SECT 12 Mode of fixing amount of compensation.

12.—(1) As soon as may be after the date of the order of the Minister for Finance confirming the drainage scheme the Commissioners shall proceed to acquire the several lands and premises, easements, water-rights and other rights proposed in the scheme to be compulsorily acquired, and the compensation to be paid for such lands, premises, and rights to the several persons entitled thereto or having estates or interests therein, or entitled to or having estates or interests in the lands and premises over which such rights are to be acquired shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (2) The amount of compensation payable— (a) to any person on account of the compulsory restriction, termination, or other interference with any easement, water-right, or other right or the diversion, removal, or other interference with any private road or bridge under or in pursuance of the drainage scheme, or (b) to any authority or body charged with maintenance of any public road or bridge on account of the diversion, removal, or other interference with such road or bridge under or in pursuance of the drainage scheme, shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, in like manner as if such compensation were the price of land compulsorily acquired. (3) When compensation is being assessed in pursuance of this section in respect of any lands, premises, or right

which are or is occupied, used, or enjoyed with or form or forms part of any mill or factory regard shall be had to any benefit resulting or which may result from any improvement in the water-power of such mill or factory or the constancy of the supply of water to it or relief from back water which may reasonably be expected to arise from the execution of the works specified in the drainage scheme. (4) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, shall apply to the compensation payable by the Commissioners and to the conveyances of lands, premises, and rights to the Commissioners under this Act, and for the purposes of such application the Commissioners shall be deemed to be the promoters of the undertaking. (5) No action shall lie at law or in equity against the Commissioners or any of their officers or servants in respect of any act, matter, or thing in respect of which compensation is payable by virtue of this section.

- SECT 13 Provision of money for carrying out drainage scheme.

13.—The money necessary to defray the cost and expenses incurred by the Commissioners in carrying out the drainage scheme and executing the works therein specified (including all compensation and other moneys payable and all incidental expenses) shall be provided as follows:— (a) the Minister for Finance may pay out of moneys to be provided by the Oireachtas so much as he shall think proper of such costs and expenses; (b) the council of any county in which the area proposed in the drainage scheme to be constituted a separate drainage district or any part of such area is situate may out of the county fund or out of moneys raised for the purpose by borrowing under this Act pay to the Commissioners so much of such costs and expenses as such council shall with the approval of the Minister for Local Government and Public Health think proper; (c) the balance of such costs and expenses over and above the amounts (if any) provided under the foregoing paragraphs shall be advanced by the Commissioners out of moneys under their control and applicable to loans and shall be repaid to the Commissioners in the manner hereinafter provided.

- SECT 14 Commissioners to prepare draft award.

14.—(1) When and so soon as the drainage scheme has been fully carried out and all the works to be executed pursuant thereto have been completed, the Commissioners shall prepare and publish a draft award. (2) Every draft award prepared under this section shall show either in the body of the award or by means of appropriate maps, drawings, plans, sections, and schedules annexed thereto the following matters:— (a) in general terms, the lands drained or improved and the works executed pursuant to the drainage scheme, and (b) the particular lands actually drained or improved, the rated occupiers of such lands, and the several quantities of such lands occupied by such rated occupiers respectively, and (c) the respective values at the date of the preparation of the drainage scheme of the said several quantities of the lands so drained or improved, and the amounts by which such values are respectively increased by the execution of the said works, and (d) the total amount of all the costs and expenses incurred by the Commissioners in the execution of works pursuant to the drainage scheme and generally in carrying out the drainage scheme, and (e) the amount of the portion of the costs and expenses aforesaid which was defrayed out of moneys advanced by the Commissioners (which portion is in this Act occasionally referred to as the advances by the Commissioners), and (f) the amount of the terminable annuity by which the advances by the Commissioners are, to be repaid in accordance with this Act, and (g) the proportions in which the said lands so drained or improved are to be liable to contribute to the drainage rate for payment of the said terminable annuity and the annual cost of the maintenance of the said works, and (h) the county or several counties in which the said lands so drained or improved are situate, and, where such lands are situate in more than one county, the proportions in which the advances by the Commissioners and the interest thereon and the said terminable annuity and the said annual cost of maintenance are to be borne by the respective councils of such counties, and (i) the area to be constituted as a separate drainage district in accordance with the drainage scheme. (3) Every such draft award shall also contain in draft form the several provisions necessary for doing or providing for every matter or thing which is by this Act required to be expressed in or to be done or provided for by a final award. (4) In fixing for the purposes of the draft award or a final award the proportions in which any sum or rate is to be borne by the several quantities of the lands so drained or improved the Commissioners shall have

regard to the extent to which such lands are respectively benefited or improved by the carrying out of the drainage scheme.

- SECT 15 Publication of notices of draft award.

15.—(1) When a draft has been prepared by the Commissioners under this Act, the Commissioners shall publish by advertisement in the *Iris Oifigiúil* and one or more newspapers circulating in the district to which the final award when made would relate a notice stating that the draft award has been prepared and the townlands to which it relates and naming a convenient place where the draft award (with all maps and other documents annexed thereto) or a copy thereof can be inspected, and further stating that a public inquiry will be held in relation to the draft award at the time (not being less, than three weeks after the first publication of such notice) and place specified in the notice. (2) At the time and place specified in that behalf in the notices published pursuant to the foregoing sub-section a public inquiry in relation to the draft award shall be held by a person appointed for the purpose by the Commissioners, and all persons who in the opinion of the person holding the inquiry would be interested in or affected by the final award if made in the form of the draft award shall be entitled to appear and be heard (in person or by solicitor or counsel) and adduce evidence at such inquiry. (3) The person holding such inquiry as aforesaid shall at the conclusion thereof report thereon to the Commissioners, and the Commissioners having considered such report may make such alterations (whether by way of variation, addition, or omission) in the draft award as they think proper. (4) When the Commissioners have approved of the draft award with such alterations (if any) as aforesaid they shall make a final award in the terms of the draft award as so approved and such final award shall operate as is hereinafter in this Act specified. (5) The Commissioners shall cause a true copy of the final award to be made and shall by endorsement thereon certify the same to be correct and shall then enrol the final award in the Record and Writ Office of the High Court and shall retain the said certified copy of the final award in their own custody. (6) The final award when duly enrolled pursuant to this section shall be conclusive and binding on all parties, and a copy thereof issued and certified by the proper officer of the High Court shall be conclusive evidence that the final award was duly made and shall also be conclusive evidence of the contents of the final award.

- SECT 16 Terminable annuity for repayment of advances by Commissioners.

16.—(1) Interest at the rate directed by the Minister for Finance on the advances by the Commissioners from the date or respective dates on which the same were advanced up to the commencement of the terminable annuity for the repayment thereof shall be capitalised and the total amount of such advances and the capitalised interest thereon shall be repaid to the Commissioners with interest at the rate directed by the Minister for Finance by means of a terminable annuity calculated in such manner and continuing for such number of years as the Minister for Finance shall direct. (2) The final award shall, in addition to the amount of the terminable annuity, prescribe the date (not being more than three months before or three months after the date of the final award) from which the said terminable annuity is to commence, the half-yearly days on which the same is to be payable, and the number of years during which it is to continue, and the said annuity shall be payable accordingly.

- SECT 17 Payment of terminable annuities by county council.

17.—(1) The final award shall operate and be expressed to charge the advances by the Commissioners and the interest thereon and the terminable annuity for repayment thereof on the county fund of the county in which the lands so drained or improved as aforesaid are situate or, where such lands are situate in more than one county, on the respective county funds of all such counties in the proportions in which the councils of such counties are stated in the final award to be liable to contribute thereto. (2) The terminable annuity for the repayment of the advances by the Commissioners shall be paid to the Commissioners by the county council on whose county fund the same is charged or, where the said annuity is charged on more than one county fund, by the several county councils on whose county funds the same is charged in the proportions in which the same is so charged. (3) Every terminable annuity or

portion of a terminable annuity payable by a county council under this section shall be paid by such council at the times and in the manner appointed for the payment thereof by the final award and shall be so paid out of the moneys raised by such council by means of the drainage rate and if and so far as such moneys are not sufficient out of the county fund. (4) All moneys payable by the council of a county to the Commissioners in respect of a terminable annuity under this Act may be recovered by the Commissioners from such council by action at law.

- SECT 18 Constitution of separate drainage district.

18.—(1) The final award shall operate and be expressed to constitute the area specified in that behalf therein to be a separate drainage district. (2) The area constituted by a final award to be a separate drainage district may include the whole or any part of one or more drainage districts constituted under the Drainage and Navigation (Ireland) Acts, 1842 to 1857, or the Drainage and Improvement of Lands (Ireland) Acts, 1863 to 1892, and existing at the passing of this Act, which districts are in this section referred to as existing drainage districts. (3) Where the whole of an existing drainage district is included in a drainage district constituted by a final award under this Act, the lands comprised in such existing drainage district shall remain liable to any capital sum charged thereon in respect of the execution of the drainage works in the district and to any rentcharge charged thereon for the repayment of such capital sum and the interest thereon, and such existing drainage district shall continue to exist in so far as is necessary for the collection and recovery of such capital sum and such rentcharge but for all other purposes shall cease to exist as on and from the date of the final award. (4) Where part of an existing drainage district is included in a drainage district constituted by a final award under this Act, the lands comprised in such part of such existing drainage district shall remain liable to their proper proportion of any capital sum charged on the lands comprised in such existing drainage district in respect of the execution of the drainage works in the district and to their proper proportion of any rentcharge charged on such lands for the repayment of such capital sum and the interest thereon, and such part of such existing drainage district shall continue to form part of such district for all purposes relating to the collection and recovery of such capital sum and such rentcharge but for all other purposes shall cease to form part of such existing drainage district.

- SECT 19 Maintenance of drainage works.

19.—(1) The final award shall operate and be expressed to charge, impose, and confer on the council of the county in which the drainage district thereby constituted is situate, or, where such district is situate in two or more counties, on the several council, of those counties jointly, the duty and power of maintaining the drainage works the subject of the final award in good repair and condition and proper and efficient working order, and of doing all matters and things reasonably necessary for or incidental to such maintenance. (2) All costs and expenses incurred by a county council or county councils in the performance of their duty of maintaining drainage works pursuant to a final award shall be raised by such county council or county councils off the drainage district by means of the drainage rate and where the district is situate in two or more counties, in the proportions in which the councils are stated in the final award to be liable thereto.

- SECT 20 Disposal of lands, etc., acquired under drainage scheme.

20.—(1) When preparing the draft award the Commissioners shall inquire and determine whether any and if so what lands, premises, easements, water-rights, and other rights acquired by them pursuant to the drainage scheme are unnecessary and not required for the drainage works or the proper maintenance and working thereof. (2) The final award shall operate and be expressed to vest in the county council thereby charged with the duty of maintaining the drainage works, or, where two or more such county councils are so charged, in such county councils jointly the drainage works executed by the Commissioners pursuant to the drainage scheme together with all lands, premises, easements, water-rights, and other rights acquired by the Commissioners pursuant to the drainage scheme other than any such lands, premises,

easements, water-rights, and other rights determined by the Commissioners under this section to be unnecessary and not required as aforesaid. (3) All such lands, premises, easements, water-rights, and other rights so determined by the, Commissioners to be unnecessary and not required as aforesaid shall be sold or otherwise disposed by the Commissioners for the benefit of the Exchequer in such manner as the Minister for Finance shall appoint.

- SECT 21 Making of drainage rate.

21.—(1) All moneys which are by this Act required to be raised for the purposes of a drainage district by the council of a county by means of the drainage rate shall be raised by means of a rate (to be known as the drainage rate) assessed on the rated occupiers of the lands situate in the county and stated in the final award to have been drained or improved in the proportions in which such lands are stated in such final award to be liable to contribute to the drainage rate. (2) The drainage rate shall be made at the same time and subject to the same appeal as the poor-rate and, if the county council so thinks fit, may be collected with the poor rate, and shall in any case be leviable, payable, and recoverable in the like manner and by the like means in all respects as poor-rate is leviable, payable, and recoverable. (3) Where the rated occupier of any lands, buildings, or premises rated in respect of a drainage rate is also the rated occupier of other lands, buildings, or premises forming part of or comprised in the same holding, farm, or tenement as the first-mentioned lands, buildings, or premises, any sum assessed on such rated occupier in respect of drainage rate under this section may be assessed on and collected and recovered from him in like manner as if such sum were payable in respect of his occupation of the whole of such holding, farm, or tenement.

- SECT 22 Raising of moneys by county councils.

22.—(1) All moneys which a county council is by this Act authorised or directed to pay out of the county fund and also all expenses incurred by a county council in the execution of this Act and the raising of which is not otherwise provided for by this Act shall be raised by means of the poor-rate as a county-at-large charge. (2) Where a county council is authorised by this Act to borrow money for any purpose such council may borrow such money under Article 22 of the Local Government (Application of Enactments) Order, 1898, in like manner as if such purpose were mentioned in that Article, and money borrowed for any such purpose shall not be reckoned as part of the debt of the council for the purposes of the said Article. (3) The cost of any loan borrowed under this section and the moneys for the re-payment thereof and for the payment of the interest thereon shall be raised by means of the poor-rate as a county-at-large charge.

- SECT 23 County councils may appoint committees.

23.—(1) Where the duty and power of maintaining drainage works is charged, imposed, and conferred by a final award on one county council, such duty may be performed and such power may be exercised by a committee appointed by such county council and consisting of such number of members of the county council and such number of persons who are not members of the county council as the Minister for Local Government and Public Health shall direct. (2) Where the duty and power of maintaining drainage works is charged, imposed, and conferred by a final award on two or more county councils jointly, such duty shall be performed and such power shall be exercised by a joint committee of such county councils appointed by them in such proportions and consisting of such number of members of each of such county councils and such number of persons who are not members of any such county council as the Minister for Local Government and Public Health shall direct. (3) The Minister for Local Government and Public Health may by order make regulations prescribing the time of election (including the first election) of members of committees and joint committees appointed under this section, the period for which such members shall hold office, the method of filling casual vacancies in their number, the disqualification of members who cease to be or become disqualified to be members of the council by which they were appointed, and the conduct of the business of such committees and joint committees. (4) At least one of the persons, not members of the county council or any of the county councils concerned, who are elected

to be members of any committee or joint committee appointed under this section in relation to any drainage works shall be a ratepayer liable to pay drainage rate in respect of such drainage works. (5) The accounts of every joint committee appointed under this section shall be separately kept and shall be audited by an auditor appointed by the Minister for Local Government and Public Health and the following enactments, that is to say, sections 11 to 15 of the Local Government (Ireland) Act, 1871, subsection (2) of section 63 of the Local Government (Ireland) Act, 1898, sections 20 and 21 of the Local Government (Ireland) Act, 1902, and section 61 of the Local Government Act, 1925 (No. 5 of 1925) as amended or adapted by or under any subsequent enactment shall apply to the audit and auditor of the accounts of such joint committees in the same manner as such enactments as so amended or adapted apply to the audit and auditor of the accounts of the public bodies specified therein. (6) Nothing in this section shall authorise any committee or joint committee appointed under this section to raise any moneys which are by this Act required to be raised by a county council.

- SECT 24 County councils, etc, to furnish annual report.

24.—Every council of a county and every joint committee on which the duty of maintaining a drainage district is imposed by this or any other Act shall furnish to the Commissioners in each year a report in respect of such district in the form and containing the particulars prescribed in that behalf by the Commissioners.

- SECT 25 Application of Drainage Maintenance Acts, 1866 and 1924.

25.—The Drainage Maintenance Acts, 1866 and 1924, shall apply to every district constituted under this Act with the modifications that any charging order made under those Acts shall make no charge other than the additional charge directed by section 8 of the Drainage Maintenance Act, 1924, to be made thereby and that the sums and interest thereby charged on the county fund of a county council shall be paid by such council out of moneys raised by such council by means of a drainage rate under this Act (which rate the council is hereby authorised to make) and, if and so far as such moneys are not sufficient, out of the county fund.

- SECT 26 Inspection of drainage district.

26.—Without prejudice to the duties and powers of the Commissioners under the Drainage Maintenance Acts, 1866 and 1924, every drainage district constituted under this Act shall be inspected by the Commissioners at least once in every five years, and immediately after such inspection of a drainage district the Commissioners shall send to the council of the county or to the councils of the several counties, in which such district is situate a report as to the state of repair and general condition of the drainage works in such district.

- SECT 27 Duties of Commissioners in regard to public roads and bridges.

27.—Where a drainage scheme provides for the diversion, removal, or other interference with a public road or bridge the, following provisions shall have effect, that is to say:— (a) where the execution of the works involves the closing of the road or bridge to traffic the Commissioners shall construct and shall maintain while such road or bridge is so closed to traffic a temporary road or bridge sufficient to carry traffic of such quantity and character as normally uses such road or bridge; (b) the Commissioners shall at or before the completion of the works specified in the drainage scheme either restore the road or bridge to its former condition or construct a new permanent road or bridge sufficient to carry the like amount (in quantity and character) of traffic as the original road or bridge was able to carry and not substantially less convenient in gradient and curve than such original road or bridge; (c) where the Commissioners construct a permanent new bridge and such bridge confers substantially greater advantages on the public of any county or urban district than the original bridge, by affording an improved means of

communication or otherwise, the Commissioners shall certify the cost of such new bridge and the Minister for Local Government and Public Health shall certify what part of such cost in his opinion ought reasonably to be borne by the council of such county or urban district, and thereupon a sum equal to the part so certified of such cost shall be raised by such council as part of the expenses of the maintenance of county or urban roads (as the case may be) and shall be paid by such council to the Commissioners; (d) no portion payable under this section by the council of a county or urban district of the cost of erecting a new bridge shall be included in the costs and expenses of carrying out the drainage scheme, but all other costs and expenses incurred by the Commissioners in complying with this section shall be part of the costs and expenses of carrying out the drainage scheme; (e) if any doubt, dispute, or question shall arise as to whether the Commissioners, in the construction, maintenance, or restoration of any temporary or permanent road or bridge pursuant to this section, have complied with the provisions of this section or as to whether a permanent new bridge constructed by the Commissioners confers substantially greater advantages on the public of any county or urban district than the original bridge, such doubt, dispute, or question shall be decided by the Minister for Local Government and Public Health whose decision shall be final and conclusive.

- SECT 28 Conduct of public inquiries.

28.—(1) Every person holding a public inquiry under this Act shall have power by notice in writing signed by him to summon witnesses and to require the production of books and other documents, and any person so summoned who fails to attend the inquiry and give evidence thereat and any person who fails or refuses to produce any book or other document the production of which is so required shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) All evidence at any public inquiry under this Act shall be given on oath, which oath the person holding the inquiry is hereby empowered to administer, and any person who gives false evidence at any such inquiry shall be guilty of perjury and be punishable accordingly. (3) Every person holding a public inquiry under this Act shall be entitled to adjourn the inquiry as he thinks fit and shall also have power to inspect and examine and for that purpose to enter upon any lands and premises affected by the drainage scheme or award in relation to which the inquiry is held or any objection to such scheme or award.

- SECT 29 Offences and penalties.

29.—(1) Every person who— (a) shall wilfully obstruct the Commissioners or any of their officers or servants in the exercise of any of the powers or the performance of any of the duties conferred or imposed on the Commissioners by or under this Act, or (b) shall wilfully obstruct any person appointed under this Act by the Commissioners or any county council or county councils to make a report for the purpose of this Act in the exercise of any of the powers conferred on him by this Act, or (c) shall pull down, remove, or injure any works in course of construction by the Commissioners under this Act, or (d) shall remove, injure, or deface any pegs, poles, or marks placed or made by the Commissioners or any of their officers or servants for the purpose or in the course of the exercise of any of the powers or the performance of any of the duties conferred or imposed on the Commissioners by or under this Act, or (e) shall throw or put any weeds, stones, soil, or other solid matter or shall cause or permit any such solid matter to fall or pass into any watercourse in respect of which any works are about to be or are in course of being constructed by the Commissioners under this Act so as to cause any obstruction, hindrance, or delay to such works, or (f) shall place or erect any dam, weir, or other obstruction in any such watercourse as aforesaid without the consent of the Commissioners, shall be guilty of an offence under this section and be punishable accordingly. (2) Every person who after any drainage works constructed under this Act are completed— (a) shall wilfully obstruct the county council or county councils charged by virtue of this Act with the maintenance of such drainage works or any committee or joint committee of such council or councils or any officer or servant of any such council, councils, committee or joint committee in the exercise of any of their powers or the performance of any of their duties in relation to such drainage works, or (b) shall pull down, remove, or in anywise injure any such drainage works or any part thereof, or (c) shall obstruct the flow of water to, through, or from any such drainage works in

such manner as to prevent or hinder the efficient operation thereof or to cause flooding of such works or any lands drained thereby, shall be guilty of an offence under this section and shall be punishable accordingly. (3) Every person convicted by a court of summary jurisdiction of an offence under this section shall be liable to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment, and shall also in the case of a continuing offence be liable to a fine (in addition to any such fine as aforesaid) not exceeding five pounds for every day during which the offence continues. (4) For the purposes of this section drainage works shall be deemed to be in course of construction until the final award in respect thereof has been, made under this Act and shall from and after the making of such award be deemed to be completed.

- SECT 30 Committees may make byelaws.

30.—(1) Every county council maintaining drainage works under this Act either directly or through a committee appointed by it and also every joint committee maintaining drainage works under this Act may make byelaws for all or any of the purposes following, that is to say:— (a) regulating the opening, closing, and working of sluices, hatches, flood-gates, and other machinery comprised in the works, (b) regulating generally the management and operation of the works, (c) prohibiting persons from obstructing, polluting, or putting solid matter into any watercourse flowing to, through, or from the works so as to prevent or hinder the efficient operation of the works or to cause flooding of any lands drained by the works, (d) prohibiting any injury or damage to the works by any person or any interference therewith by unauthorised persons, (e) compelling persons liable to maintain any watercourse or drain to keep the same cleaned and scoured, (f) prescribing the penalties which may be inflicted on persons found by a court of summary jurisdiction to be guilty of contravening the byelaws but so that no such penalty shall exceed a fine of twenty-five pounds altogether with, in the case of a continuing offence, a further fine of five pounds for every day during which the offence continues or, in any case and at the discretion of the court, imprisonment for a term of three months. (2) No byelaw made under this section shall be of any force or effect unless and until confirmed by the Minister for Local Government and Public Health, and every such byelaw when so confirmed shall come into operation on the date prescribed in that behalf by the said Minister when confirming the same or, if no such date is so prescribed, immediately upon such confirmation. (3) Any person found guilty by a court of summary jurisdiction of contravening any byelaw made under this section may be sentenced by such court to suffer any penalty not exceeding the penalty prescribed by such byelaws in respect of such contravention or, where no penalty is so prescribed, not exceeding a fine of twenty-five pounds together with, in the case of a continuing offence, a further fine of five pounds for every day during which the offence continues or, in any case and at the discretion of the court, imprisonment for any term not exceeding three month.

- SECT 31 Short title. 31.—This Act may be cited as the Arterial Drainage Act, 1925.