

Barrow Drainage Act, 1927



Number 26 of 1927.

BARROW DRAINAGE ACT, 1927.

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Number 26 of 1927.

BARROW DRAINAGE ACT, 1927.

AN ACT TO MAKE PROVISION FOR THE FORMULATION,
CARRYING OUT, AND MAINTENANCE OF A SCHEME OF
ARTERIAL DRAINAGE OF THE RIVER BARROW AND ITS
TRIBUTARIES. [28th May, 1927.]

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

Definitions.

1.—(1) In this Act—

the expression “*the Commissioners*” means the Commissioners of Public Works in Ireland;

the expression “*the draft scheme*” means the draft scheme to be prepared by the Commissioners under this Act;

the expression “*the scheme*” means the scheme confirmed by the Minister for Finance under this Act;

the expression “*the counties concerned*” means the counties of Wicklow, Kildare, Leix, Offaly, Carlow and Kilkenny;

the expression “*the county councils*” means the councils of the counties concerned;

the word “*drainage*” includes drainage by pumping either alone or in conjunction with other means, and all cognate words shall be construed accordingly;

the expression “*the drainage works*” means the drainage works executed by the Commissioners under this Act;

the expression “*the maintenance of the drainage works*” means the maintenance of the drainage works in good repair and condition and proper and efficient working order and includes everything incidental to such maintenance;

the expression “*the cost of the maintenance of the drainage works*” means all costs and expenses (including remuneration of officers and servants) of or incidental to the maintenance of the drainage works;

the expression “*local financial year*” means a period commencing on the first day of April and ending on the following 31st day of March;

all expressions to which special meanings are assigned by the Local Government (Ireland) Act, 1898, or the [Local Government Act, 1925](#) (No. 5 of 1925) 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*” includes lands, buildings, and premises of every description whether urban or rural.

Preparation of draft scheme by the Commissioners.

2.—(1) As soon as may be after the passing of this Act the Commissioners shall prepare a draft scheme of arterial drainage for reducing flooding on the River Barrow and its tributaries and for the carrying out of the works necessary therefor and of such other works subsidiary or incidental thereto as the Commissioners may think necessary or desirable.

(2) The draft scheme shall show, either in the body thereof or by means of appropriate maps, drawings, plans, sections, and schedules annexed thereto, the following matters, that is to say:—

- (a) the rivers, streams, and 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, the roads and bridges and the railways and navigations proposed to be diverted, removed or otherwise interfered with, and
- (d) the reputed proprietors and owners, and the rated or other occupiers of the several lands and premises, easements, water-rights, and other rights, public roads and bridges, railways and navigations 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
- (e) the area to be constituted a separate drainage district on the completion of the proposed works, and
- (f) an estimate of the cost of the execution of the proposed works and of the expenses generally of carrying out the proposals contained in the draft scheme.

(3) In preparing the draft scheme the Commissioners shall have regard to the user of the River Barrow and the Canals connecting therewith for the purpose of navigation and to the necessity of avoiding any permanent interference with or hindrance to such navigation.

(4) The expenses incurred by the Commissioners in preparing the draft scheme shall be part of the general expenses of carrying the scheme into execution and shall be paid accordingly.

(5) The Commissioners shall for the purpose of the preparation of the draft scheme be entitled at all reasonable times to enter upon any land or premises affected or alleged or believed to be affected by the flooding of the River Barrow or its tributaries and upon such other land or premises in the neighbourhood thereof as the Commissioners shall think necessary and there to do such acts and things as shall be reasonably necessary for the purpose aforesaid.

Publication of draft scheme.

3.—(1) When the draft scheme has been prepared by the Commissioners the Commissioners shall—

- (a) publish by advertisement in the *Iris Oifigiúil* and one or more newspapers circulating in the counties concerned a notice stating that the draft scheme has been made and the townlands to which it relates and naming convenient places where the draft scheme (with all maps and other documents

annexed thereto) or a copy thereof can be inspected, and

- (b) serve on all reputed proprietors and owners, and the rated or other occupiers of lands, rights, or other property proposed in the draft 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, in the case of every such proprietor, owner, and occupier, a notice informing him that the draft scheme proposes the compulsory acquisition of or interference or dealing with some land, right, or other property (which interference or dealing (if any) and property shall be fully described in the notice) owned or occupied by him, and
- (c) serve on the local authority charged with the maintenance of any public road or bridge proposed in the draft 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, and
- (d) serve on every person owning any railway or navigation proposed in the draft 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 person of the diversion, removal, or other interference so proposed.

(2) Every notice served under this section on a reputed proprietor or owner or on a rated or other occupier of any lands, rights or other property or upon a local authority charged with the maintenance of any public road or bridge or upon a person owning any railway or navigation shall contain or be accompanied by a statement or notice requiring such proprietor, owner, or occupier, or such local authority or such person (as the case may require) if such proprietor, owner or occupier or such local authority or such person (as the case may be) has any objection to the draft 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.

(3) At the expiration of the time limited in the said notices for the communication to the Commissioners of objections to the draft scheme, the Commissioners shall examine all such objections so communicated to them and the Commissioners may reject any such objections which appear to them to be merely frivolous or vexatious.

(4) If on such examination of objections it appears that there are no such objections or all such objections are either rejected or withdrawn, the Commissioners shall present the draft 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.

Inquiry in respect of objections to draft scheme.

4.—(1) In the event of its becoming necessary under the foregoing section to hold a public inquiry in respect of objections to the draft scheme, such inquiry shall be held by a 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 shall 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 county councils, and

(c) any other person interested in the draft 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 draft scheme as they think proper and shall then present the draft 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 draft scheme by the Commissioners.

Confirmation of draft scheme by Minister for Finance.

5.—(1) Upon presentation of the draft scheme to the Minister for Finance by the Commissioners, the Minister for Finance may by order confirm the draft scheme either without alteration or with such alterations (whether by way of variation, addition, or omission) as he thinks proper to make therein.

(2) After the confirmation of the scheme by the Minister for Finance the Commissioners shall—

(a) serve on every reputed proprietor or owner, and every rated or other occupier of any land, right, or other property proposed in the scheme to be compulsorily acquired, interfered with, or otherwise affected a notice informing him that the scheme has been confirmed by the Minister for Finance and proposes the compulsory acquisition of or interference or dealing with some land, right, or other property (which interference or dealing (if any) and property shall be fully described in the notice) owned or occupied by him, and

- (b) serve on every 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 notice informing such local authority that the scheme has been confirmed by the Minister for Finance and proposes the diversion, removal, or other interference (as the case may be) with a public road or bridge (which interference and road or bridge shall be fully described in the notice) with the maintenance of which such local authority is charged, and
- (c) serve on every person owning a railway or navigation proposed in the scheme to be diverted, removed, or otherwise interfered with a notice informing such person that the scheme has been confirmed by the Minister for Finance and proposes the diversion, removal, or other interference (as the case may be) with a railway or navigation (which interference and railway or navigation shall be fully described in the notice) owned by such person.

(3) Every such notice as aforesaid shall be served not later than one month before the Commissioners proceed to acquire, or divert, remove, or otherwise interfere with the property to which such notice relates.

Preparation of substituted or additional scheme.

6.—(1) If after the confirmation of the scheme by the Minister for Finance it appears to the Commissioners that alterations are necessary in the works proposed in the scheme to be executed (in this section called the original works) or that works additional to the original works are necessary the Commissioners may either—

- (a) prepare a draft scheme (in this section referred to as a substituted scheme) to be substituted for the scheme and containing proposals for the execution of the original works with such alterations of such works as the Commissioners consider necessary whether such alterations involve or do not involve an increase of the estimate of the cost of the execution of the original works and of the expenses generally of carrying out the proposals contained in the scheme or involve or do not involve the compulsory acquisition of or other interference with any lands, rights, or other property other than the lands, rights, or other property proposed in the scheme to be compulsorily acquired or otherwise interfered with, or
- (b) prepare a draft scheme (in this section referred to as an additional scheme) to be an addition to the scheme and containing proposals for the execution of works in addition to the original works whether such additional works involve or do not involve an increase of the estimate aforesaid or involve or do not involve the compulsory acquisition of or other interference with any lands, rights, or other property other than the lands, rights, or other property proposed in the scheme to be compulsorily acquired or otherwise interfered

with.

(2) The Commissioners shall publish such notices, receive such objections, and hold such inquiries (if any) in respect of a draft substituted scheme or a draft additional scheme prepared by them under this section as shall be directed by the Minister for Finance, and shall present such draft substituted scheme or draft additional scheme, when finally settled by them, to the Minister for Finance for confirmation.

(3) Upon such presentation of a draft substituted scheme or a draft additional scheme the Minister for Finance may by order confirm such draft substituted scheme or draft additional scheme either without alteration or with such alterations (whether by way of variation, addition, or omission) as he thinks proper to make therein.

(4) When a substituted scheme or an additional scheme has been confirmed by the Minister for Finance all references in this Act to the scheme shall, in respect of anything done or to be done after such confirmation, be construed and take effect as references (as the case may require) to the substituted scheme or to the scheme and the additional scheme collectively.

Carrying out of scheme
by the Commissioners.

7.—When an order has been made by the Minister for Finance under this Act confirming the 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 to be necessary, and
- (b) to enter on any land or premises and there do all such acts and things as shall be reasonably necessary for or incidental to the construction, execution, and completion of the said 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 compulsorily 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 service on the reputed proprietor or owner, and the rated or other occupier of such lands or premises, easement, water-right or other right of the notice required by this Act to be served on such proprietor, owner and occupier by the Commissioners after the confirmation of the scheme by the Minister for Finance and notwithstanding that the conveyance of such lands, premises, easement, or right has not been executed or the price thereof ascertained at the time of such entry or exercise, 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 otherwise interfered with, and to divert, remove, or otherwise interfere with any railways, navigations, roads, or bridges proposed in the scheme to be diverted, removed, or otherwise interfered with, and, if the Commissioners so think fit, to do any of the things aforesaid at any time after the service on the reputed proprietor or owner of such easements, water-rights or other rights or on the person owning such railways or navigations or on the local authority charged with the maintenance of such roads or bridges (as the case may be) of the notice required by this Act to be served on such reputed proprietor or owner or such person or such local authority (as the case may be) by the Commissioners after the confirmation of the scheme by the Minister for Finance and notwithstanding that no conveyance has been executed or compensation ascertained or paid 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.

Mode of fixing amount of compensation.

8.—(1) As soon as may be after the confirmation of the scheme by the Minister for Finance the Commissioners shall proceed to acquire the several lands, and premises, easements, waterrights, 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 the 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

(b) to any local authority charged with the 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 scheme: or

(c) to any person owning a railway or navigation on account of the diversion, removal, or other interference with such railway or navigation under or in pursuance of the 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 the 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 under the scheme.

(4) When compensation is being assessed in pursuance of this section in respect of an interference with a navigation regard shall be had to any benefit to such navigation resulting or which may result from the deepening of the water of such navigation, the improvement of the supply of water thereto or otherwise by reason of the execution of the works under the scheme.

(5) When all the works to be executed under the scheme have been completed and before the draft award is published the Grand Canal Company may require that the compensation payable to them in respect of permanent injury to the navigation of the River Barrow and the canals connected therewith by the execution of the said works shall be assessed under this sub-section and if such requisition is so made the foregoing provisions of this section shall not apply to the assessment of such compensation and in lieu thereof the questions whether any permanent injury has been occasioned to the said navigation by the execution of the said works and whether any permanent benefit has been occasioned to the said navigation by the execution of the said works shall be referred to the arbitration of a competent engineer appointed by the Minister for Industry and Commerce and such engineer shall also determine whether any and, if any, how much compensation is payable to the Grand Canal Company in respect of such permanent injury (if any) after taking into consideration such permanent benefit (if any). The costs of both parties of such arbitration shall be in the discretion of the said arbitrator.

(6) 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.

(7) 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.

Provision of money for carrying out the works.

9.—The money necessary to defray the costs and expenses incurred by the Commissioners in carrying out the scheme and executing the works therein specified (including all compensation and other moneys payable and all incidental expenses) shall be provided as follows, that is to say:—

- (a) a sum (in this Act called the advance by the Commissioners) equal to one-half of the total costs and expenses, but not exceeding the sum of two hundred and twelve thousand, five hundred pounds, 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 in this Act, and
- (b) the balance of such costs and expenses over and above the advance by the Commissioners, but not exceeding the sum of two hundred and twelve thousand, five hundred pounds, shall be provided by the Minister for Finance out of moneys to be provided by the Oireachtas.

Preparation of draft award by the Commissioners.

10.—(1) When and so soon as all the works to be executed under the scheme have been completed the Commissioners shall prepare and publish a draft award showing either in the body thereof 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 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 annual values immediately before the commencement of the works of the said several quantities of the lands so drained or improved, and the amounts by which such annual values are respectively increased by the execution of the drainage works, and
- (d) the proportions in which the several quantities of the said lands so drained or improved in each of the counties concerned are to be liable to contribute to the drainage rate made under this Act by the Council of that county, and
- (e) the total increase in each of the counties concerned in the annual value of the lands in that county drained or improved by the drainage works, and
- (f) the proportions in which the counties concerned are to be liable to contribute to the repayment of the advance by the Commissioners and to the cost of the maintenance of the drainage works, such proportions being the proportions which the total increases aforesaid in each of such counties respectively bear to the aggregate amount of all such total increases.

(2) The said 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 provided for by the

final award.

(3) In fixing for the purposes of the draft award or the final award the proportions in which the several quantities of the lands so drained or improved are to be liable to contribute to the drainage rate the Commissioners shall have regard to the extent to which such lands are respectively benefited or improved by the carrying out of the scheme.

Disposal of surplus lands, etc.

11.—(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 scheme are unnecessary and not required for the drainage works or the proper maintenance and working thereof.

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

Publication of notices of draft award.

12.—(1) When the draft award 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 will relate a notice stating that the draft award has been prepared and the townlands to which it relates and naming convenient places 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 of this section a public inquiry in relation to the draft award shall be held by a person appointed for the purpose by the Minister for Lands and Agriculture, 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 the 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 Central 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.

Constitution of Barrow
Drainage District.

13.—(1) The final award shall operate and be expressed to constitute the area specified in that behalf therein to be a separate drainage district to be called and known as the Barrow Drainage District.

(2) The area so constituted by the 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 under 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 the Barrow Drainage District 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 rent-charge 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 rent-charge 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 the Barrow Drainage District, 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 rent-charge 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 rent-charge but for all other purposes shall cease to form part of such existing drainage district.

Constitution of Barrow
Drainage Board.

14.—(1) The final award shall operate and be expressed to charge, impose, and confer on the county councils jointly the duty and power of maintaining the drainage works in good repair and efficient working order, and of doing all matters and things reasonably necessary for or incidental to such maintenance.

(2) The county councils shall perform the duty and exercise the power

so charged, imposed and conferred as aforesaid on them by the final award through a joint committee to be constituted in the manner specified in the Schedule to this Act and to be called and known as the Barrow Drainage Board.

Membership, business, and accounts of Barrow Drainage Board.

15.—(1) 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 the Barrow Drainage Board, 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 the Barrow Drainage Board.

(2) The accounts of the Barrow Drainage Board 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 and 17 and 18 of the Local Government (Ireland) Act, 1871, sub-section (2) of section 63 of the Local Government (Ireland) Act, 1898, sections 20, 21 and 22 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 the Barrow Drainage Board 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.

Officers and servants of the Barrow Drainage Board.

16.—(1) The Barrow Drainage Board shall appoint such and so many officers as the Minister for Local Government and Public Health shall determine and may appoint such servants as the said Board may consider to be necessary for the purpose of the maintenance of the drainage works and the performance of the duties imposed on the said Board by this Act.

(2) The [Local Authorities \(Officers and Employees\) Act, 1926](#) (No. 39 of 1926) shall apply to the Barrow Drainage Board in like manner as it applies to the local authorities mentioned therein and for that purpose the said Board shall be a local authority within the meaning of that Act and the Minister for Local Government and Public Health shall be the Minister within the meaning of that Act.

(3) Every officer and every servant of the Barrow Drainage Board appointed under this section shall receive such remuneration as may be determined by the Barrow Drainage Board with the consent of the Minister for Finance and in the case of an officer the approval of the Minister for Local Government and Public Health.

(4) An officer or servant of the Barrow Drainage Board appointed under this section may be removed from his office as such officer or servant at any time by the Barrow Drainage Board.

Vesting of drainage works in County

17.—The final award shall operate and be expressed to vest in the

Councils.

county councils jointly the drainage works together with all lands, premises, easements, water rights, and other rights acquired by the Commissioners pursuant to the scheme other than and except any such lands, premises, easements, water rights, and other rights as shall have been determined by the Commissioners under the power in that behalf vested in them by this Act to be unnecessary and not required for the drainage works or the proper maintenance and working thereof.

Amount to be raised by means of the drainage rate.

18.—(1) Each of the county councils shall in every of the thirty-five local financial years next after the 31st day of March following the date of the final award raise by means of the drainage rate a sum equal to the total increase as stated in the final award in the annual value of the lands in their county drained or improved by the drainage works.

(2) Each of the county councils shall in every local financial year after the thirty-five such years mentioned in the foregoing sub-section raise by means of the drainage rate the sum required by this Act to be paid by them in such local financial year to the Barrow Drainage Board for the maintenance of the drainage works.

Maintenance of drainage works during first thirty-five years.

19.—(1) The county councils shall during the thirty-five local financial years next after the 31st day of March following the date of the final award pay to the Barrow Drainage Board the annual sum of two thousand pounds in the proportions in which their several counties are respectively stated in the final award to be liable to contribute to the cost of the maintenance of the drainage works.

(2) Every county council shall pay the proportion of the said annual sum of two thousand pounds payable by them in any of the said thirty-five local financial years by two equal moieties on the 30th day of September and the 31st day of March out of the moneys which they are by this Act required to raise by means of the drainage rate in such local financial year.

(3) The Commissioners shall at or as soon as may be after the end of every of the said thirty-five local financial years examine into and report to the Minister for Finance as to the maintenance of the drainage works in that year, and if and whenever the Commissioners so report to the said Minister that the drainage works have been well and efficiently and economically maintained by the Barrow Drainage Board during the preceding local financial year, the said Minister shall, as soon as may be after receiving such report, pay out of moneys provided by the Oireachtas to the Barrow Drainage Board one moiety of the amount appearing on the audit of the relevant accounts to have been actually expended by the Barrow Drainage Board during such preceding local financial year in the maintenance of the drainage works.

(4) The Barrow Drainage Board shall during the said thirty-five local financial years defray the cost of the maintenance of the drainage works out of the moneys paid to them under this section and may in any of those years expend on such cost all or such part as the Board thinks proper of such moneys for the time being in their hands whether

received in such year or in any previous year and may at any time after the expiration of those years apply towards defraying the cost of the maintenance of the drainage works all or any part of those moneys then remaining uninvested in their hands.

(5) The Barrow Drainage Board may with the consent of the Minister for Finance and shall if so required by the said Minister at any time invest in such securities as may be approved of by the said Minister any surplus of the moneys paid to them under this section for the time being in their hands and shall accumulate the income of such investments by reinvesting the same, but may at any time (whether before or after the expiration of the said thirty-five local financial years) with the consent of the said Minister and shall if so required by the said Minister realise and apply such investments or any part thereof or the income thereof towards defraying the cost of the maintenance of the drainage works.

(6) The Barrow Drainage Board shall make such returns and furnish such information to the Commissioners as shall be required by them for the purpose of making any examination or report which they are required by this section to make.

Repayment of advance
by Commissioners.

20.—(1) The advance by the Commissioners with interest thereon at the rate to be fixed by the Minister for Finance shall be repaid by the payment by the county councils in accordance with this section to the Commissioners of an annual sum of such amount as shall be fixed by the Minister for Finance and such annual sum shall be so payable for the thirty-five local financial years next after the 31st day of March following the date of the final award.

(2) The annual sum payable by the county councils to the Commissioners under this section in any local financial year shall be paid as follows, that is to say:—

- (a) each of the county councils shall pay to the Commissioners the difference between the sum required by this Act to be raised by such county council in that local financial year by means of the drainage rate and the sum required by this Act to be paid by such county council in that local financial year to the Barrow Drainage Board for the maintenance of the drainage works, and
- (b) the balance of such annual sum over and above the total of the sums payable under the foregoing paragraph shall be paid by the respective councils of the counties concerned out of their respective county funds in the proportions in which such counties are stated in the final award to be liable to contribute to the repayment of the advance by the Commissioners.

(3) Every payment required by this section to be made by a county council to the Commissioners in any local financial year shall be so paid by two equal moieties payable on the 30th day of September and the 31st day of March respectively in such local financial year.

(4) The final award shall operate and be expressed to charge on the county fund of each of the counties concerned every sum payable by the council of such county to the Commissioners under this section out of the moneys to be raised by such county council by means of the drainage rate and to charge on the county fund of each of the counties concerned every sum payable by the council of such county to the Commissioners under this section out of such county fund.

Maintenance of drainage works after first thirty-five years.

21.—(1) After the expiration of the thirty-five local financial years next after the 31st day of March following the date of the final award, the Barrow Drainage Board shall at the prescribed time before the commencement of every local financial year prepare an estimate of the amount which will be required by it during such local financial year to defray the cost of the maintenance of the drainage works and shall apportion the amount so estimated amongst the county councils in the proportions in which their several counties are respectively stated in the final award to be liable to contribute to the cost of the maintenance of the drainage works and shall at the prescribed time in or before such local financial year and in the prescribed manner send to each of the county councils a demand for the amount so apportioned to such council.

(2) Every county council shall in every such local financial year raise by means of the drainage rate the amount so demanded of them by the Barrow Drainage Board in respect of that year and shall pay such amount to the Barrow Drainage Board in two equal moieties on the 30th day of September and the 31st day of March in that year.

(3) The Barrow Drainage Board shall defray the cost of the maintenance of the drainage works in every such local financial year out of the moneys paid to them under this section.

(4) In this section the word “*prescribed*” means prescribed by the Minister for Local Government and Public Health.

Making of drainage rate.

22.—(1) All moneys which are by this Act required to be raised by a county council 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 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) During the thirty-five local financial years next after the 31st day of March following the date of the final award it shall not be necessary, save in so far as the Minister for Local Government and Public Health otherwise directs, for a county council actually to make a drainage rate

or to publish any notices of the making of such rate or to do any other thing preliminary to the collecting of the drainage rate which in the opinion of such county council may reasonably be left undone having regard to the fact that the amount of the drainage rate is fixed by this Act and the final award.

(4) 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.

(5) If and whenever the moneys collected by a county council in a local financial year in respect of the drainage rate struck by such council for such year are insufficient to meet the payments required by this Act to be made by such council in such year out of moneys raised by means of the drainage rate, the deficiency shall be made good and paid by such council out of the county funds of their county.

Raising of moneys by county councils.

23.—All moneys which any of the county councils are by this Act authorised or directed to pay out of the county fund and also all expenses incurred by such 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.

Application of Drainage Maintenance Acts, 1866 and 1924.

24.—The Drainage Maintenance Acts, 1866 and 1924, shall apply to the Barrow Drainage District 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 funds shall be paid by the county councils out of moneys raised by the county councils by means of a drainage rate under this Act (which rate the county councils are hereby authorised to make), and, if and so far as such moneys are not sufficient, out of the county funds.

Inspection of drainage district and works.

25.—Without prejudice to the duties and powers of the Commissioners under the Drainage Maintenance Acts, 1866 and 1924, the Barrow Drainage District and the drainage works therein shall be inspected by the Commissioners at least once in every five years, and immediately after every such inspection the Commissioners shall send to each of the county councils and to the Barrow Drainage Board a report as to the state of repair and general condition of the said drainage works.

Duties of Commissioners in regard to public roads and bridges.

26.—If and in so far as the 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 specified in the scheme 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 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) when 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 main county or urban roads (as the case may be) and shall be paid by such council to the Commissioners, and the payment of such sum shall be a purpose for which such council may borrow under the enactments relating to borrowing by such council;
- (d) 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.

Duties of Commissioners in regard to railways and railway bridges.

27.—(1) If and in so far as the scheme provides for the diversion, removal, or other interference with any railway or railway bridge the following provisions shall (subject to the provisions of this section) have effect, that is to say:—

- (a) where the execution of the works specified in the scheme involves the closing of the railway or railway bridge to traffic, the Commissioners shall construct and shall maintain while such railway or railway bridge is so closed to traffic a

temporary railway or railway bridge sufficient to carry traffic of such quantity and character as normally uses such railway or railway bridge;

(b) the Commissioners shall at or before the completion of the works specified in the scheme either restore the railway or railway bridge to its former condition or construct a new permanent railway or railway bridge sufficient to carry the like amount (in quantity and character) of traffic as the original railway or railway bridge was able to carry and not substantially less convenient in gradient and curve than such original railway or railway bridge;

(c) if any doubt, dispute, or question shall arise as to whether the Commissioners, in the construction, maintenance, or restoration of any temporary or permanent railway or railway bridge pursuant to this section, have complied with the provisions of this section, such doubt, dispute, or question shall be decided by the Minister for Industry and Commerce whose decision shall be final and conclusive.

(2) The Great Southern Railways Company may at the request of the Commissioners undertake the work of constructing and maintaining any temporary railway or railway bridge and of restoring any railway or railway bridge or of constructing any new permanent railway or railway bridge the construction and maintenance and the restoration or construction of which respectively are or is required by this section to be done by the Commissioners.

(3) The cost of any work undertaken and completed by the Great Southern Railways Company at the request of the Commissioners under this section shall be paid by the Commissioners as part of the expenses of carrying out the scheme, and if any dispute or question arises between the Great Southern Railways Company and the Commissioners as to the amount of such cost such dispute or question shall be decided by the Minister for Industry and Commerce whose decision shall be final and conclusive.

Execution of work connected with the Barrow Navigation.

28.—(1) The Grand Canal Company may at the request of the Commissioners undertake any work in connection with the Barrow Navigation which is provided for by the scheme.

(2) The cost of any work undertaken and completed by the Grand Canal Company at the request of the Commissioners under this section shall be paid by the Commissioners as part of the expenses of carrying out the scheme, and if any dispute or question arises between the Grand Canal Company and the Commissioners as to the amount of such cost such dispute or question shall be decided by the Minister for Industry and Commerce, whose decision shall be final and conclusive.

Duties of Commissioners in regard to navigable

29.—If and in so far as the scheme provides for the diversion, removal, or other interference with any aqueduct carrying a canal or

aqueducts.

other navigable waterway the following provisions shall have effect, that is to say:—

- (a) the Commissioners shall at or before the completion of the work specified in the scheme either restore the aqueduct to its former condition or construct a new permanent aqueduct sufficient to carry the like amount (in quantity and character) of navigating traffic as the original aqueduct was able to carry and not substantially less convenient in gradient, curve, and depth than such original aqueduct;
- (b) if any doubt, dispute, or question shall arise as to whether the Commissioners in the restoration or construction of an aqueduct pursuant to this section have complied with the provisions of this section, such doubt, dispute, or question shall be decided by the Minister for Industry and Commerce whose decision shall be final and conclusive.

Conduct of public inquiries.

30.—(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.

Service of notices, etc.

31.—(1) Every notice and other document to be served by the Commissioners under this Act 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 and the notice or document relates to any lands, right, or property, at such lands or the place of situation of such right or property, 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.

(2) The address of a limited company shall for the purposes of this section be the address of its registered office.

Offences and penalties.

32.—(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 pull down, remove, or injure any works in course of construction by the Commissioners under this Act, or
- (c) 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
- (d) 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
- (e) 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 the drainage works to be constructed under this Act are completed—

- (a) shall wilfully obstruct the Barrow Drainage Board or any officer or servant of the Barrow Drainage Board in the exercise of any of their powers or the performance of any of their duties in relation to the drainage works, or
- (b) shall pull down, remove, or in anywise injure the drainage works or any part thereof, or
- (c) shall obstruct the flow of water to, through, or from the 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 the drainage works shall be deemed to be in course of construction until the date of the final award and shall from and after that date be deemed to be completed.

Making of bye-laws by
Barrow Drainage
Board.

33.—(1) The Barrow Drainage Board may make bye-laws for all or any of the following purposes, that is to say:—

- (a) regulating the opening, closing and working of sluices, hatches, flood-gates, and other machinery comprised in the drainage works;
- (b) regulating generally the management and operation of the drainage works;
- (c) prohibiting persons from obstructing, polluting, or putting solid matter into any watercourse flowing to, through, or from the drainage 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 drainage 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 clean 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 bye-laws but so that no such penalty shall exceed 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 months.

(2) No bye-law made under this section shall be of any force or effect unless and until confirmed by the Minister for Local Government and Public Health (after consultation with the Minister for Finance) and every such bye-law when so confirmed shall come into operation on the date prescribed in that behalf by the Minister for Local Government and Public Health 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 bye-law made under this section may be sentenced by such court to suffer any penalty not exceeding the penalty prescribed by such bye-law 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 months.

Short title.

34.—This Act may be cited as the Barrow Drainage Act, 1927.

SCHEDULE.

1. The Barrow Drainage Board shall consist of the following members, that is to say:—

four members appointed by the council of the county Kildare;

four members appointed by the council of the county of Leix;

four members appointed by the council of the county of Offaly;

if the aggregate amount payable in respect of the maintenance of the drainage works and in respect of the repayments of the advance by the Commissioners and the interest thereon by the Council of the County of Carlow in each of the thirty-five local financial years next after the 31st day of March following the date of the final award equals or exceeds the sum of £300, one member appointed by the said Council of the County of Carlow;

if the like aggregate amount payable by the Council of the County of Kilkenny in each of the said local financial years equals or exceeds the sum of £300, one member appointed by the said Council of the County of Kilkenny;

if the like aggregate amount payable by the Council of the County of Wicklow in each of the said local financial years equals or exceeds the sum of £300, one member appointed by the said Council of the County of Wicklow;

one member appointed by the Grand Canal Company.

2. Of the four members appointed by each of the county councils of Kildare, Leix, and Offaly, two shall be members of the appointing council and two shall not be members of any of the county councils, and one at least of the last-mentioned two members shall be a drainage ratepayer in the county of that council.

3. The member (if any) appointed by each of the county councils of Carlow, Kilkenny, and Wicklow may, at the option of the appointing council, be or not be a member of such appointing council.