

DRAINAGE MAINTENANCE ACT 1924

long title

An Act to make better provision for the maintenance, repair, and improvement of drainage works in Saorstát Eireann executed under the acts relating to the drainage of lands in Ireland. [5th August, 1924.]

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

1 Definitions. 1.—In this Act, the expression "the Commissioners" means the Commissioners of Public Works in Ireland, and all expressions to which special meanings are assigned by the Local Government (Ireland) Act, 1898, have the special meanings so assigned to them respectively.

Commissioners may repair drainage works.

2.—(1) The Commissioners may from time to time as and when they think fit, appoint an engineer or other competent person to inspect and report upon the state of the drainage works in any drainage district. (2) If it shall appear to the Commissioners, from the report of any such engineer or other person, that the drainage works in any drainage district are not in such good order, repair, and condition as to be fit and proper in the opinion of the Commissioners for their intended purpose, the Commissioners may execute such works as they shall consider necessary for the proper and effective repair of the drainage works in that drainage district, and such works may include any improvements to such drainage works which in the opinion of the Commissioners are necessary or proper and will not injuriously affect any person. (3) The Commissioners shall have and may exercise in relation to any works executed by them under this Act, all or any, such powers as are conferred on them by the Drainage Maintenance Act, 1866, as adapted or modified by any later enactment in relation to works executed by them under that Act.

Transfer of drainage business to county councils.

3.—(1) Where the Commissioners execute any works under this Act in any drainage district in which the business of the drainage board or the trustees has not been transferred to a county council under section 20 of the Local Government (Ireland) Act, 1898, the Minister for Local Government and Public Health upon the completion of such works shall by order made in exercise of the powers in that behalf conferred on him by the said section 20, as amended by this section, transfer the business of the drainage board or the trustees of that drainage district to the proper county council or county councils, and for that purpose the consent of such drainage board or trustees to such transfer shall not be necessary. (2) No order made by the Minister for Local Government and Public Health, pursuant to the foregoing sub-ion, shall require confirmation as a Provisional Order.

Provision of money for works under this Act.

4.—(1) The money required to meet the cost of the execution of any works under this Act by the Commissioners in any drainage district 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 cost but not more in any case than one-half of the total cost of the works

executed under this Act in that drainage district; (b) the council of the county in which the drainage district or any part thereof is situate may contribute in manner hereinafter provided, so much of such cost as such council shall, with the approval of the Minister for Local Government and Public Health think proper, but the sum contributed by such council, or where the district is situate in more than one county, the total sum contributed by the councils of the several counties in which the district is situate, shall not exceed one-half of the total cost of the works executed under this Act in that district; (c) the balance of such cost over and above the amounts (if any) provided under the foregoing paragraphs shall be advanced by the Commissioners in manner hereinafter provided. (2) For the purposes of this Act, the cost of the execution of any works shall include all expenses incidental to the execution of such works.

Contribution by county councils.

5.—(1) For the purposes of so much of this Act as authorises a county council to make a contribution to the cost of works executed by the Commissioners under this Act, a county council may borrow money under Article 22 of the Local Government (Application of Enactments) Order, 1898, in like manner as if those purposes were mentioned in that article, and money borrowed for the purposes aforesaid shall not be reckoned as part of the debt of the county for the purposes of the said article. (2) The cost of any loan borrowed under this section and the moneys for the repayment thereof and for payment of the interest thereon shall, subject to the provisions of this section, be raised by means of the poor rate as a county-at-large charge, but the county council may resolve that such cost and moneys shall, instead of being levied as a county-at-large charge, be levied as an urban charge or a district charge off any urban or rural district or districts specially benefited by the works in respect of which the loan was raised. (3) A resolution passed by a county council pursuant to the foregoing sub-ion shall not take effect unless and until confirmed by the Minister for Local Government and Public Health, but if and when confirmed, whether with or without modification, whether by way of addition or omission by that Minister such resolution as so confirmed shall take effect as on and from the date specified therein for that purpose or if no such date is so specified as from the date on which the resolution was passed by the county council. (4) The Minister for Local Government and Public Health shall not confirm any such resolution as aforesaid until— (a) he is satisfied that notice of the resolution was sent by the county council within one week after the passing thereof to the council of every county district affected by the resolution, and (b) the said Minister has considered any representations made to him in regard to the resolution by any such district council within one month after the notice thereof was so sent to them. (5) The Minister for Local Government and Public Health before confirming any such resolution may if he thinks fit hold a local inquiry in regard to such resolution and Article 32 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall apply to every such local inquiry.

Advances by the Commissioners.

6.—(1) The proportion to be provided by the Commissioners of the cost of any works executed under this Act in any drainage district shall be advanced by the Commissioners out of moneys under their control and applicable to loans and shall be repayable to the Commissioners with interest at the rate directed by the Minister for Finance— (a) where the drainage district is wholly situate in one county, by the council of that county; and (b) where the drainage district is situate in two or more counties, by the councils of those counties in the proportions fixed by the Commissioners. (2) Upon the completion of any works executed under this Act by the Commissioners in a drainage district, or if the Commissioners so think proper on the completion of any distinct part of such works, the Commissioners shall ascertain the cost of such works or of the part thereof so completed, and the proportion of such cost to be advanced by the Commissioners under this section, and shall make in respect

of such proportion and the interest thereon at the rate aforesaid a charging order under the Drainage Maintenance Act, 1866. (3) Every such charging order shall be in such form as is prescribed by the Drainage Maintenance Act, 1866, with such modifications as may be rendered necessary by the provisions of this Act, and all the provisions of that Act in relation to a charging order made thereunder shall, subject to any modifications or adaptations of that Act effected by any later Act and subject to the provisions of this Act, apply to a charging order made in pursuance of this section.

Collection of sums under charging order under this Act.

7.—(1) The several sums charged by a charging order made under this Act on the lands in the district to which the order relates shall be payable, and shall be expressed in the order to be payable, to the council of the county in which the land is situate, and that council shall have and may exercise for the recovery of such sums all and every of the rights, powers, and remedies conferred by the Drainage Maintenance Act, 1866, on the Commissioners for the recovery of sums charged by a charging order made thereunder. (2) Every sum assessed on any proprietor by or in pursuance of a charging order made under this Act shall where the proprietor is not also the occupier of the land be leviable on, payable by, and recoverable from the occupier of the land, and the Commissioners shall make such apportionments as may be necessary to give effect to this sub-ion, but the liability of an occupier under this section shall be without prejudice to any right to deduct any such sum paid by him from the rent payable by him. (3) It shall be the duty of the council of any county in which is situate a drainage district or any part of a drainage district to which a charging order made under this Act applies to collect from the proprietors or (where the proprietor is not also the occupier) the occupiers of so much of the lands charged by such order as is situate in such county all sums payable by the proprietors of such lands to such council under the charging order, and any such sum shall and may be collected and recovered in the like manner as poor rate is or may be collected and recovered. (4) section 54 of the Drainage and Improvement of Lands Act (Ireland), 1863, shall apply to all moneys assessed, rated, and taxed on proprietors and their lands pursuant to any charging order made under this Act.

Liability of county councils to Commissioners.

8.—(1) Every charging order made by the Commissioners in pursuance of this Act shall, in addition to any charge made thereby in pursuance of the Drainage Maintenance Act, 1866, or any other section of this Act— (a) if the sum to which the order relates is repayable to the Commissioners by virtue of this Act by one county council, charge such sum and the interest thereon on the county fund of that council; and (b) if such sum is repayable to the Commissioners by virtue of this Act by two or more county councils, declare the proportions in which such sum is repayable by such councils and charge such sum and the interest thereon on the respective county funds of such councils in the proportions so declared; and (c) in any case declare the times and manner at and in which such sums and the interest thereon are payable by the county council or respective county councils to the Commissioners. (2) All sums and interest charged on a county fund by any charging order made under this Act shall be paid to the Commissioners by the county council on whose county fund the same is charged, at the times and in the manner declared by the charging order, and shall be paid by such council out of the moneys collected by them from the proprietors or the occupiers of the lands on which the same is charged and, if and so far as such moneys are not sufficient, out of the county fund and shall be raised by means of the poor rate as a county-at-large charge. (3) All moneys payable to the Commissioners by the council of a county pursuant to this section may be recovered by the Commissioners from such council by action at law.

Collection of drainage maintenance rates, etc, by county councils.

9.—(1) This section applies to every sum which is or shall hereafter be collectable, whether by way of drainage maintenance rate, or under a charging order, or otherwise, by a county council from the lands in a drainage district or the proprietors of such lands by reason of the business of the drainage board or trustees of that drainage district having been or being hereafter transferred to such county council. (2) Every sum to which this section applies assessed on a proprietor shall where the proprietor is not also the occupier of the land be leviable on, payable by, and recoverable from the occupier of the land on behalf of the proprietor thereof, and the Commissioners shall make such apportionments as may be necessary to give effect to this sub-ion, but the liability of an occupier under this section shall be without prejudice to any right to deduct any such sum paid by him from the rent payable by him. (3) Any sum to which this section applies shall and may be collected and recovered by the county council in the like manner as poor rate is or may be collected and recovered. (4) section 54 of the Drainage and Improvement of Lands Act (Ireland), 1863, shall apply to all moneys collected or recovered from and paid by an occupier of land pursuant to this section.

Short title and commencement.

10.—(1) This Act may be cited as the Drainage Maintenance Act, 1924. (2) This Act shall be construed as one with the Drainage Maintenance Act, 1866, and that Act and this Act may be cited together as the Drainage Maintenance Acts, 1866 and 1924. (3) This Act shall be deemed to have come into force on the 1st day of April, 1924, and shall take effect as on and from that date.