

SAORSTÁT EIREANN.

BILLE DREINEALA AIRTEIRIGHE (MION-SCEIMEANNA)
1928.

ARTERIAL DRAINAGE (MINOR SCHEMES) BILL, 1928.

*Mar do ritheadh ag dhá Thigh an Oireachtais.
As passed by both Houses of the Oireachtas.*

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BILL

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entitled

AN ACT TO MAKE PROVISION FOR THE FORMULATING
AND CARRYING OUT BY COUNTY COUNCILS OF
SCHEMES OF ARTERIAL DRAINAGE ON A LIMITED
SCALE.

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

Definitions.

1.—(1) In this Act—

the expression “ the Minister ” means the Minister for Local
Government and Public Health;

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

the word “ county ” does not include a county borough;

the word “ prescribed ” means prescribed by the Minister by
regulations made under this Act.

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(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.

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Petition for
execution of
drainage works.

2.—(1) Any three or more persons being occupiers of lands
which are liable to be flooded or injured by water or which are
capable of being improved by drainage other than
thorough drainage or being persons upon trust for whom
or for whose benefit any such lands are held by the
occupiers thereof may at any time within five years after the pass-
ing of this Act but not later apply to the council of the county
or the respective councils of the counties in which such lands are
situate to have drainage works executed under this Act for the
purpose of draining or improving such lands.

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(2) Every application under this section to the council of a
county or to the respective councils of two or more counties shall
be made by petition presented (as the case may be) to such coun-
cil or to each of such councils severally and every such petition
shall be in writing in the prescribed form and shall state in
general terms the drainage works which it is thereby proposed
should be executed and shall contain a statement by the peti-
tioners that to the best of their knowledge and belief the total
cost of the execution of such drainage works will not exceed one
thousand pounds.

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Consideration of
petition by the
county council.

3.—(1) Every county council to whom a petition is presented
under this Act within five years after the passing of this Act shall
refer such petition to the county surveyor for his report on the
general merits of the proposals contained in the petition and the
probable total cost of the execution of the drainage works com-
prised in such proposals.

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(2) For the purpose of making such report as aforesaid the
county surveyor and his assistants shall be entitled at all reason-
able times to enter upon the lands referred to in the petition and
such other lands in the neighbourhood thereof as he or they shall

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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.

5 (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—

10 (a) if the sum stated in such report as the probable total cost of the execution of the drainage works proposed in such petition does not exceed one thousand pounds and effect can be given to the proposals contained in such petition without infringing any of the provisions of this Act, the council may as they think fit either
15 pass a resolution approving of the proposals contained in the petition and determining to carry them out under this Act or pass a resolution disapproving of such proposals, or

20 (b) if the sum stated in such report as the probable total cost of the execution of the drainage works proposed in such petition exceeds one thousand pounds or effect cannot be given to the proposals contained in such petition without infringing some provision of this Act, the council may either pass a resolution that the petition and report be treated as a petition and report
25 made under the Arterial Drainage Act, 1925, (No. 33 of 1925) or pass a resolution disapproving of such proposals.

30 (4) Where a petition is presented under this Act to the councils of two or more counties 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
35 report of such county surveyor.

(5) Any county council or combination of county councils may, in lieu of referring such petition to a county surveyor, refer such petition to some other qualified engineer nominated by such council or councils and in such case all references in this section to a
40 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, in default of agreement, shall be fixed by the Minister out of the several county funds of the councils by whom
45 he is appointed.

4.—Every report made within five years after the passing of this Act by a county surveyor or other qualified engineer under section 3 of the Arterial Drainage Act, 1925 (No. 33 of 1925) shall include a report as to whether the probable total cost of the execution of the drainage works comprised in the proposals to which the report relates will or will not exceed the sum of one thousand pounds and in the latter case the amount of such probable total cost and whenever any such report states that the probable total cost of the execution of such drainage works will not exceed one thousand pounds such report and the petition in reference to which such report was made shall be deemed to have been duly presented and made under this Act and this Act shall apply accordingly.

Reports under the Arterial Drainage Act, 1925.

5.—(1) Whenever a petition is duly presented or deemed to have been presented under this Act to one county council only and such council duly passes under this Act a resolution approving of the proposals contained in such petition and determining to carry them out under this Act, such council shall prepare and (subject to confirmation) carry into execution in accordance with this Act a drainage scheme to effect the objects of such proposals.

Preparation of drainage scheme.



(2) Whenever a petition is duly presented or deemed to have been presented under this Act to two or more county councils and every such council duly passes under this Act a resolution approving of the proposals contained in such petition and determining to carry them out under this Act, all such councils shall through and by a joint committee appointed by them for the purpose under this Act jointly prepare and (subject to confirmation) carry into execution in accordance with this Act a drainage scheme to effect the objects of such proposals. 5

(3) No county council shall prepare or carry out alone any drainage scheme which proposes the execution of any drainage works or the drainage or improvement of any lands outside the county of such council and no joint committee of county councils shall prepare or carry out any drainage scheme which proposes the execution of any drainage works or the drainage or improvement of any lands outside the counties of such councils. 10 15

(4) No county council or joint committee of county councils shall prepare or carry out any drainage scheme which proposes any interference with the works of any drainage district constituted in pursuance of the provisions of the Navigation (Ireland) Acts, 1842 to 1857, or the Drainage and Improvement of Lands (Ireland) Acts, 1863 to 1892, or the Arterial Drainage Act, 1925 (No. 33 of 1925), or with the lands, rights, and other property of any local authority without the consent of such authority or with the powers, lands, rights, and other property of any body charged with the control of the navigation of any river or having the ownership of any canal without the consent of such body. 20 25

Effect of certain resolutions.

6.—(1) If on the consideration under this Act of a petition and report the county council or all the county councils to which such petition was presented duly passes or pass a resolution that the petition and report be treated as a petition and report made under the Arterial Drainage Act, 1925 (No. 33 of 1925), the petition and report shall be deemed to have been duly presented and made under that Act and that Act shall apply accordingly. 30

(2) If on the consideration under this Act of a petition and report a county council duly passes a resolution disapproving of the proposals contained in such petition the secretary of such council shall communicate such resolution to the petitioners. 35

Form and contents of drainage scheme.

7.—(1) Every drainage scheme shall be in the prescribed form and shall have annexed thereto all such (if any) maps, drawings, plans, sections, and schedules as may be prescribed and shall show in the prescribed manner all such matters and things as are referred to in this Act as fixed by or stated in the drainage scheme and all such other matters and things as shall be prescribed. 40

(2) The probable total cost of carrying out the drainage scheme shall be stated in the scheme and shall not exceed the sum of one thousand pounds and, where the county council or joint committee charged with the preparation of a drainage scheme is satisfied after due investigation that it is not possible to frame a scheme which will give reasonable effect to the proposals contained in the petition for such scheme and can be carried out for a probable total cost not exceeding the sum of one thousand pounds, such council or committee shall declare such proposals incapable of being carried out under this Act and thereupon all proceedings under the said petition shall be abandoned but without prejudice to proceedings by petition under this Act for a new drainage scheme relating to the same locality. 45 50 55

(3) Where a drainage scheme is abandoned under this section the expenses incurred by the county council or joint committee in and about the preparation of such scheme prior to the abandonment thereof shall be paid (as the case may be) out of the county fund of such council or in such proportions as shall, in default of agreement, be determined by the Minister out of the several county funds of the county councils by whom such joint committee is appointed. 60 65

8.—Within the prescribed time after the completion of the preparation of the drainage scheme the county council or joint committee charged with the preparation thereof shall—

Notices of and objections to the scheme.

- 5 (a) deposit a copy of the drainage scheme in the office of such county council or of every of the county councils by whom such joint committee is appointed (as the case may be) and also in a convenient place at or near the site of the drainage works proposed to be executed under the drainage scheme, and
- 10 (b) keep every copy of the drainage scheme so deposited open to inspection by any person at all reasonable hours during the time prescribed for sending objections to the scheme to such county council or joint committee, and
- 15 (c) serve in the prescribed manner on all occupiers of lands proposed in the scheme to be drained or improved notice in the prescribed form of the preparation of the scheme and of the said deposit and opportunity of inspection of copies thereof and of the prescribed time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections to the scheme may be sent to such county council or joint committee and also by the same or a separate notice (as may be prescribed) and in the prescribed form and manner require every such occupier to inform such county council or joint committee within a specified time (which shall be the same as the time for sending objections to such council or committee) and in the prescribed manner
- 20 whether he assents to or dissents from the scheme, and
- 25 (d) if the drainage scheme proposes that any lands, rights, or other property should be acquired, serve in the prescribed manner on all owners or reputed owners, lessees or reputed lessees, and occupiers of such lands, rights and other property notice in the prescribed form of the preparation of the scheme and of the said deposit and opportunity of inspection of copies thereof and of the prescribed time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections to the drainage scheme may be sent to such county council or joint committee and also by the same or a separate notice (as may be prescribed) and in the prescribed form inform every such owner or reputed
- 30 owner, lessee or reputed lessee, or occupier that the scheme proposes the acquisition of some land, right, or other property (which property shall be fully described in the notice) owned, held, or occupied by him.
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- 50 9.—(1) If the aggregate value as stated in the drainage scheme of so much of the lands proposed by the scheme to be drained or improved as are in the occupation of persons who have duly informed the county council or the joint committee (as the case may be) that they dissent from the scheme exceeds one-half of the total value as stated in the scheme of the lands so proposed to be
- 55 drained or improved the county council or joint committee shall refuse to confirm the scheme but if the said aggregate value does not exceed one-half of the said total value the county council or joint committee (as the case may be) after considering the objections (if any) to the drainage scheme duly sent to them under this Act and hearing such (if any) persons as they are required by this section to hear, shall at their discretion either confirm the scheme without alteration or confirm the scheme with such alteration (whether by way of variation, addition, or omission) as they
- 60 may think proper to make therein or refuse to confirm the scheme.

Confirmation of drainage scheme.

(2) The following provisions shall apply to the confirmation under this section of a drainage scheme by a county council or

joint committee and to the refusal of such confirmation, that is to say:—

- (a) such confirmation or refusal shall be made only at a meeting of the county council or joint committee of which not less than seven days notice stating that the confirmation of the scheme will be considered at the meeting has been sent to every member of the county council or joint committee and also in the prescribed form and manner to the public. 5
- (b) the notice to the public of such meeting shall state that any person bona fide aggrieved by or objecting to the drainage scheme may attend such meeting and will be heard by the council or committee, 10
- (c) every person attending such meeting and claiming to be aggrieved by or to object to the drainage scheme and desiring to be heard shall be heard by the council or committee unless his grievance or objection appears to them to be frivolous or merely obstructive, 15
- (d) the meeting may be adjourned from time to time as may be necessary or expedient, 20
- (e) unless the confirmation of the scheme, whether with or without alteration, is passed at such meeting by an absolute majority of all the members of such county council or joint committee the confirmation of the drainage scheme shall be deemed to have been refused by such council or committee. 25
- (3) When a county council or joint committee has duly confirmed a drainage scheme, whether with or without alteration, such county council or joint committee shall within the prescribed time serve on the prescribed persons and in the prescribed form and manner notice of the confirmation of the scheme. 30
- (4) When a county council or a joint committee duly refuses or is deemed to have refused to confirm a drainage scheme such scheme shall be abandoned and no further steps shall be taken in respect thereof but without prejudice to proceedings by petition under this Act for a new drainage scheme relating to the same locality. 35
- (5) The expenses incurred by a county council or a joint committee in and about the preparation and confirmation of a drainage scheme shall, whether such scheme is or is not confirmed under this section, be paid (as the case may be) out of the county fund of such council or in such proportions as shall in default of agreement be determined by the Minister out of the several county funds of the county councils by whom such joint committee is appointed. 45
- (6) The confirmation of a drainage scheme under this section shall be conclusive evidence that the requirements of this Act have been complied with in respect of such scheme and that such scheme has been duly made and is within the powers conferred by this Act. 50
- (7) References in this Act to a drainage scheme in relation to anything to be done or to occur at any time subsequent to the confirmation of such scheme under this section shall be construed as references to such scheme as so confirmed.

Carrying out
of drainage
scheme.

10.—When a drainage scheme has been duly confirmed under this Act such scheme (with such reasonable additions, omissions, variations and deviations as shall in the course of the work be found necessary) shall be carried out in accordance with this Act by the county council or through and by the joint committee (as the case may be) by whom such scheme was prepared. 60

11.—(1) A county council or joint committee charged with the carrying out of a drainage scheme under this Act may at any time after the confirmation of such scheme acquire, either by agreement or compulsorily, for the purposes of such scheme any lands, rights or other property stated in such scheme as intended to be acquired, and for the purpose of such acquisition every drainage scheme shall be deemed to incorporate the Lands Clauses Acts as amended by the Second Schedule to the Housing of the Working Classes Act, 1890, section 11 of the Housing of the Working Classes (Ireland) Act, 1908, sections 7 and 12 of the Housing (Ireland) Act, 1919, and the Acquisition of Land (Assessment of Compensation) Act, 1919, and those Acts shall apply accordingly.

Acquisition of land for purposes of drainage scheme.

(2) All property acquired under this section by a joint committee shall be conveyed to and vested in the county council of the county in which such property is situate and the conveyance or the receipt or other document operating as the conveyance of such property shall be framed accordingly and such property shall be held by such council upon trust for the purposes of the drainage scheme.

12.—(1) When all the drainage works to be executed under a drainage scheme have been completed and the scheme has been fully carried out, the county council or joint committee charged under this Act with the carrying out of such scheme shall cause the lands proposed in the scheme to be drained or improved to be inspected by a competent land valuer or land surveyor appointed by them and a report to be made to them by such valuer or surveyor as to the completion of the said works and the carrying out of the scheme and as to the amounts by which the respective annual values of the said lands have been increased by the carrying out of the scheme.

Assessments to the drainage rate.

(2) On consideration of such report and on being satisfied that the drainage scheme has been fully carried out and after affording to the persons concerned a reasonable opportunity of inspecting such report and being heard in regard thereto, the county council or joint committee shall issue their certificate certifying that the scheme has been fully carried out and certifying the respective amounts by which the respective annual values of the said lands have been increased by the carrying out of the scheme having regard to the benefits reasonably to be expected to accrue to such lands therefrom.

(3) The occupiers of the several lands proposed in the drainage scheme to be drained or improved shall be assessed to the drainage rate rateably in proportion to the amount (in this Act referred to as the drainage assessment) by which the annual value of the lands occupied by them is so certified by the county council or joint committee to have been increased by the carrying out of the scheme.

(4) Every certificate issued under this section by a joint committee shall certify in respect of the county of each of the county councils by whom such committee is appointed the total amount of the drainage assessments of lands in such county.

(5) Whenever it is necessary to make, before the issue of a certificate under this section, any division of liability or obligation between two or more county councils which is by or under this Act required to be made in proportion to the total drainage assessments of lands in the respective counties of such councils, such division shall be made in proportion to the total amounts by which the annual values of lands proposed in the scheme to be drained or improved in such counties respectively are stated in the scheme to be expected to be increased by the carrying out of the scheme and so soon as such certificate is issued all (if any) necessary repayments and readjustments shall be made between such councils and the amount of such repayments and readjustments shall in default of agreement be fixed by the Minister.

(6) A county council or a joint committee by whom a certificate has been issued under this section may at any time on the application of any person interested apportion the drainage assessment under such certificate of any lands as between different portions of those lands in any case in which such apportionment appears to them to be necessary and whenever any such apportionment is so made such council or committee shall on demand by any person and on payment by such person of such fee not exceeding one shilling as shall be fixed by them issue to such person a declaration in writing of such apportionment and every such declaration shall (without proof of the signature or authority of the person by whom the same purports to have been issued) be conclusive evidence in all courts and for all purposes of such apportionment.

(7) A certificate issued by a county council or a joint committee under this section shall be deposited and kept in the office of such council or committee (as the case may be) and, in the case of a certificate so issued by a joint committee, a duplicate thereof shall also be deposited and kept in the office of every of the county councils by whom such committee is appointed and every such certificate and duplicate certificate so deposited shall be open to inspection by any person free of charge in the office in which the same is so deposited at all times during which such office is open for the transaction of business and the secretary of a county council in whose office any such certificate or duplicate is so deposited shall on demand and on payment of such fee (not exceeding one shilling) as shall be fixed by such council furnish to any person a correct copy of such certificate or duplicate or of any portion thereof specified by such person and such secretary or some other officer of such county council nominated by such council for that purpose shall in writing under his hand certify the correctness of every copy so furnished and every copy so certified shall (whether the same is made from a certificate deposited under this subsection or from a duplicate so deposited and without proof of the signature, office, or authority of the person by whom the same purports to be so certified) be conclusive evidence in all courts and for all purposes of the making and contents of the certificate or portion thereof of which it purports to be a copy.

Expenses of carrying out a drainage scheme.

13.—(1) The expenses incurred by a county council in carrying out alone a drainage scheme shall be defrayed in the first instance either, as such council shall think proper, out of the county fund or out of moneys raised for the purpose by borrowing under this Act or partly in the one way and partly in the other way.

(2) The expenses incurred by a joint committee in carrying out a drainage scheme shall be defrayed in the first instance by the county councils by whom such joint committee is appointed in proportion to the total amounts of the drainage assessments of lands in their respective counties, and the proportion of such expenses to be so defrayed by any of such councils shall be paid either, as such council shall think proper, out of the county fund or out of moneys raised for the purpose by borrowing under this Act or partly in the one way and partly in the other way and shall in any case be furnished to such joint committee on the prescribed demand and in the prescribed manner.

(3) The moneys expended by a county council under the foregoing provisions of this section in defraying the expenses incurred in carrying out a drainage scheme (whether such scheme is carried out by such council alone or by a joint committee partly appointed by such council) shall be repaid to such council out of the following funds so far as they will respectively extend, that is to say, the sum fixed in the drainage scheme as the sum to be raised by such council by means of the drainage rate for

the purpose of such repayment, the sum received by such council in respect of the State grant hereinafter in this Act provided for, and the county contribution (if any) of such council, and the residue of such moneys shall be repaid to such council out of the
5 county fund of such council.

14.—(1) At such time or times during the carrying out of a drainage scheme or within three months after the completion of such carrying out has been certified under this Act as the Minister for Finance shall direct there shall be paid out of
10 moneys provided by the Oireachtas such sum (in this Act referred to as the State grant) in respect of such drainage scheme as the Minister for Finance shall sanction not exceeding whichever of the following amounts shall be the lesser, that is to say, one-fourth of the total cost of carrying out such drainage scheme or
15 the sum of two hundred and fifty pounds.

State contribution to the cost of drainage scheme.

(2) Where a drainage scheme is carried out by one county council the State grant in respect of such scheme shall be paid to such council and where a drainage scheme is carried out by a joint committee the State grant in respect of such scheme shall
20 be paid to the county councils by whom such joint committee is appointed in shares proportionate to the total amounts of the drainage assessments of lands in their respective counties.

(3) All moneys received by a county council on foot of the State grant in respect of a drainage scheme shall be applied by
25 such council as a repayment so far as such moneys will extend of the moneys provided by such council to meet the expenses incurred in carrying out such scheme.

15.—(1) Where a drainage scheme provides for an annual or other contribution (in this Act referred to as a county contribution) by a county council towards the expenses incurred in carrying out such scheme such county council shall duly make such contribution in accordance with such scheme and shall apply the amount of such contribution towards the repayment to such council of the moneys provided by such council to meet the ex-
35 penses incurred in carrying out such scheme.

County contribution to cost of drainage scheme.

(2) A county contribution shall be paid either, as the council making the same shall think proper, out of the county fund or out of moneys raised for the purpose by borrowing under this Act or partly in the one way and partly in the other way.

40 16.—(1) The moneys required by a drainage scheme to be raised by a county council by means of the drainage rate for or towards the repayment to such council of the moneys provided by such council to meet the expenses incurred in carrying out such scheme and also all moneys required to be provided by such
45 council for the maintenance of the drainage works executed in pursuance of such scheme shall be raised by such council by means of an annual poundage rate (in this Act referred to as the drainage rate) made and assessed on the several occupiers of the lands in the county of such council which were proposed
50 in such scheme to be drained or improved.

Repayment of expenses incurred by a county council.

(2) The drainage rate shall be made at the same time and subject to the same appeal as the poor rate and shall 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.

55 (3) Where a person assessed to a drainage rate under this Act in respect of land occupied by him is the occupier of other land forming part of or comprised in the same holding, farm, or tenement as the land in respect of which he is so assessed to

such drainage rate, any sum so assessed on him in respect of such drainage rate may be collected and recovered from him in like manner as if such sum were assessed on and payable by him in respect of his occupation of the whole of such holding, farm, or tenement.

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Maintenance of drainage works.

17.—(1) When a drainage scheme has been fully carried out the county council or joint committee by which the same was carried out shall thenceforth maintain the drainage works constructed pursuant to the scheme in good repair and condition and proper and efficient working order.

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(2) Where a drainage scheme has been carried out by a single county council the expenses incurred by such council in maintaining in accordance with this section the drainage works executed pursuant to the scheme shall be defrayed out of the moneys raised under this Act by such council by means of the drainage rate.

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(3) Where a drainage scheme has been carried out by a joint committee the moneys required by such joint committee for maintaining the drainage works executed pursuant to such scheme shall be furnished to such joint committee on the prescribed demand and in the prescribed manner by the county councils by whom such joint committee is appointed in proportion to the total amounts of the drainage assessments of lands in their respective counties out of the moneys raised under this Act by such councils respectively by means of the drainage rate.

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Provisions as to turbary rights.

18.—Whenever the lands proposed in a drainage scheme to be drained or improved include any bog land from which turf is at the preparation of such scheme being or capable of being obtained or from which turf will as a result of the execution of such scheme be capable of being obtained the following provisions shall apply, that is to say:—

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(a) for the purposes of any statement contained in the scheme of the value of such bog land or of any increase of such value, the value of such bog land shall be taken exclusive of and subject to any rights (in this section referred to as turbary rights) of cutting and removing turf from such bog land whether generally or for a particular purpose and whether in virtue of ownership of such bog land or of ownership of other lands or otherwise;

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(b) the value of the several turbary rights over or in respect of such bog land shall be stated in the scheme and the increase in such value expected to arise from the carrying out of the scheme shall also be so stated;

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(c) the like notices shall be served on all persons having turbary rights over or in respect of such bog land as are by this Act required to be served on occupiers of lands proposed in the scheme to be drained or improved and every person having such turbary rights shall have the like rights of making objections to and of expressing assent to or dissent from the scheme as are conferred on such occupiers by virtue of this Act;

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(d) for the purpose of determining whether the number of dissents from the scheme is or is not sufficient to prevent the confirmation of the scheme, but for no other purpose, turbary rights shall be deemed to be lands proposed in the scheme to be drained or improved and to be in the occupation of the persons entitled thereto;

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(e) the report to be made under this Act to the county council or joint committee charged with the carrying out of the scheme as to the amounts by which the respective annual values of lands have been increased

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5 by the carrying out of the scheme shall not include
in such amounts any benefit to the owners of turbary
rights in respect of such rights but shall contain
particulars of the manner in and extent to which such
owners have been benefited in respect of such turbary
rights by the carrying out of the scheme and shall
also contain recommendations as to the contributions
(in this section referred to as the turbary assessments)
10 towards the cost of the carrying out of the scheme
and the maintenance of the drainage works con-
structed pursuant thereto to be assessed on such
owners in respect of such benefit;

(f) no person shall be assessed to a drainage rate in respect
of a turbary right;

15 (g) the county council or joint committee charged under
this Act with the carrying out of a drainage scheme
shall, when fixing the drainage assessments in respect
of such scheme, also fix the turbary assessments to be
assessed on and paid by the respective owners of
20 turbary rights benefited in respect of such rights by
the carrying out of the scheme and shall fix such
assessments in all respects as appears to them to be
just and equitable having regard to the manner in
and extent to which such owners are so benefited by
25 the carrying out of the scheme and in particular may
fix any such assessment as a lump sum payable in one
instalment or in two or more instalments over a period
of months or years or as an annual or a half-yearly
sum of fixed or variable amount payable over a num-
30 ber of years;

(h) the certificate of such county council or joint committee
certifying the respective amounts by which the re-
spective annual values of lands have been increased
35 by the carrying out of the scheme shall also certify
the amounts of the several turbary assessments and
the time and manner of payment thereof by the
respective owners of turbary rights, and such assess-
ments shall be payable by such owners to such county
council or joint committee accordingly and shall be
40 collected and recovered in the like manner and by the
like persons and means in all respects as the drainage
rate is collectable and recoverable and, for the pur-
pose of such recovery, every turbary assessment shall
be deemed to be assessed and leviable on all land
45 which is in the occupation of the owner of the turbary
rights to which the assessment relates and is either
the land on which such rights are exercisable or the
land to which such rights are appendant or
appurtenant;

50 (i) where a scheme has been carried out by a joint committee,
every turbary assessment in respect thereof shall be
collected by the county council in whose county is
situate the land over which the turbary rights to which
the turbary assessment relates are exercisable and every
55 such turbary assessment when collected by such county
council shall be paid to such joint committee;

(j) all moneys received on foot of turbary assessments in
respect of a drainage scheme by the county council
or joint committee charged under this Act with the
60 carrying out of such scheme shall be applied by such
county council or joint committee in reduction of the
moneys to be raised by such council or for such com-
mittee by means of the drainage rate and shall be so
applied either towards repayment of the expenses
65 incurred in carrying out the scheme or towards the
maintenance of the drainage works executed in pur-
suance of the scheme or partly in the one way and
partly in the other way as such council or committee

shall think fit and shall be so applied at the discretion of such council either as and when received or by accumulating and resorting to the accumulations or partly in the one way and partly in the other way.

Offences and penalties in relation to drainage works.

19.—(1) Every person who—

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- (a) shall wilfully obstruct a county council or joint committee or any of the officers or servants of such council or committee in the exercise of any of the powers or the performance of any of the duties conferred or imposed on them by or under this Act or the exercise of any right of entry on lands conferred by this Act, or 10
- (b) shall wilfully obstruct any person appointed under this Act by a 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 15
- (c) shall pull down, remove, or injure any works in course of construction by a county council or joint committee under this Act, or
- (d) shall remove, injure, or deface any pegs, poles, or marks placed or made by a county council or joint committee 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 them by or under this Act, or 20
- (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 a county council or joint committee under this Act so as to cause any obstruction, hindrance, or delay to such works, or 25
- (f) shall place or erect any dam, weir, or other obstruction in any such watercourse as aforesaid without the consent of the county council or joint committee concerned, or 30
- (g) shall fail to keep clean and scoured any watercourse or drain which he is liable to maintain and in respect of which works are about to be or are in course of being or have been constructed by a county council or joint committee under this Act or which communicates directly or indirectly with any such watercourse or drain, 35

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— 45

- (a) shall wilfully obstruct the county council or joint committee charged by virtue of this Act with the maintenance of such drainage works or any officer or servant of any such council or committee in the exercise of any of their powers or the performance of any of their duties in relation to such drainage works, or 50
- (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 lands drained thereby, shall be guilty of an offence under this section and shall be punishable accordingly. 55

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(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 drainage scheme under which the same are constructed is fully carried out.

20.—(1) Every county council or joint committee maintaining drainage works under this Act may make bye-laws for all or any of the purposes following, that is to say:—

Bye-laws in relation to drainage works.

15 (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,

20 (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,

25 (d) prohibiting any injury or damage to the works by any person or any interference therewith by unauthorised persons,

(e) 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 offence continues or, in any case and at the discretion of the court, imprisonment for a term of three months.

30 (2) No bye-law made under this section shall be of any force or effect unless and until confirmed by the Minister, and every such bye-law when so confirmed shall come into operation on the date prescribed in that behalf by the Minister when confirming the same or, if no such date is so prescribed, immediately upon such confirmation.

35 (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.

21.—(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.

Raising of moneys by county councils.

60 (2) A county council may borrow money for the purposes of this Act under Article 22 of the Schedule to the Local Government (Application of Enactments) Order, 1898, in like manner as if those purposes were mentioned in that Article, and money borrowed under this section by a county council for the purposes of this Act shall not be reckoned as part of the total debt of such county council for the purposes of the said Article.

(3) A county council borrowing money under this section may borrow such money from the Commissioners of Public Works in Ireland and those Commissioners may if they think fit lend such money to such county council under the Public Works (Ireland) Acts, 1831 to 1886 and notwithstanding anything in those Acts such loan may be made for such term as the said Commissioners think fit. 5

Appointment of joint committee of county councils.

22.—(1) Every joint committee appointed under this Act by two or more county councils for the purpose of preparing and (if confirmed) carrying out a drainage scheme and maintaining the drainage works constructed pursuant to such scheme shall be so appointed in such proportions and shall consist of such total number of members and of such number of members of each of such councils and such number (if any) of persons who are not members of any such council as the Minister shall direct. 10
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(2) The Minister may prescribe the time of election (including the first election) of members of such joint committees as aforesaid, 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 joint committees. 20

(3) The accounts of every such joint committee shall be separately kept and shall be audited by an auditor appointed by the Minister and the following enactments, that is to say, sections 11 to 15 of the Local Government (Ireland) Act, 1871, sub-section (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. 25
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(4) Legal proceedings had or taken by a joint committee appointed under this section shall be had or taken in the names jointly of the county councils by whom such committee is appointed and legal proceedings had or taken against any such joint committee shall be had or taken against such councils jointly. 35
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(5) Nothing in this section shall authorise a joint committee appointed under this section to raise any moneys which are by this Act required or authorised to be raised by a county council.

Appointment of officers.

23.—(1) A county council or a joint committee appointed under this Act may appoint such and so many officers as they shall from time to time think proper for the purposes of this Act. 45

(2) There shall be paid by a county council or joint committee to the officers appointed by them under this section such remuneration as may be determined by such council or committee.

(3) Any officer appointed under this section may at any time be removed from his office as such officer by the council or committee by which he was appointed. 50

Powers of entry on lands.

24.—(1) Every county council or joint committee preparing or carrying out a drainage scheme or maintaining drainage works under this Act and their officers and servants shall be entitled at all reasonable times to enter for the purposes of such preparation, carrying out, or maintaining on any lands to which such scheme is intended to or does relate or on which such drainage works have been constructed and on any other lands in the neighbourhood thereof entry on which appears to them to be necessary for such purposes. 55
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(2) Every county council or joint committee which or the officers or servants of which enter on any lands under this section shall be liable to pay to the occupier of such lands reasonable compensation for the damage (if any) done to such lands by such entry or by the execution thereon of the purpose for which such entry was made, and the right to and amount of such compensation shall in default of agreement be determined by the District Court on the application of either party and the costs of such application shall be borne by such party or parties as the court shall in its discretion direct.

25.—(1) The Minister may hold or cause to be held such inquiries as he considers necessary or expedient for the purposes of this Act. Inquiries by the Minister.

(2) Article 32 of the Local Government (Application of Enactments) Order, 1898 shall apply to every inquiry held under this section.

26.—(1) The Minister may by order make regulations in regard to any matter or thing which is referred to in this Act as prescribed or which the Minister is authorised by this Act to prescribe. Regulations.

(2) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either House of the Oireachtas within the next subsequent twenty-one days on which that House has sat annulling such regulation such regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under such regulation.

27.—Nothing in this Act shall authorise any acquisition of or interference with any property, real or personal, vested in Saorstát Eireann or in a Minister head of a Department of State or in a board or body exercising any functions of government or public administration or any restriction of or other interference with any power vested by statute in a Minister head of a Department of State or in any such board or body as aforesaid. Saving for State and public property.

28.—This Act may be cited as the Arterial Drainage (Minor Schemes) Act, 1928. Short title.

Saorstát Éireann.

Saorstát Éireann.

BILLE DREINEALA AIRTEIRIGHE
(MION-SCEIMEANNA), 1928.

ARTERIAL DRAINAGE (MINOR
SCHEMES) BILL, 1928.

BILLE

BILL

dá ngairmtear

entitled

Acht chun a chur ar chumas Comhairlí Contae scéimeanna Dréineála Airtéirighe laistigh de chostas áirithe do cheapa agus do chur i ngníomh.

An Act to make provision for the formulating and carrying out by County Councils of schemes of Arterial Drainage on a limited scale.

*Rithte ag dhá Thigh an Oireachtais,
24úh Iúil, 1928.*

*Passed by both Houses of the Oireachtas,
24th July, 1928.*

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