

ÉIRE.

BILLE NA nUDARAS AITIULA (OIBREACHA), 1949. LOCAL AUTHORITIES (WORKS) BILL, 1949.

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

ARRANGEMENT OF SECTIONS.

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3. Local authority unable or unwilling to execute works.
4. Power of entry on land.
5. Compensation.
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7. Short title.

ÉIRE.

BILLE NA nUDARAS AITIULA (OIBREACHA), 1949. LOCAL AUTHORITIES (WORKS) BILL, 1949.

BILL

entitled

5

AN ACT TO ENABLE CERTAIN LOCAL AUTHORITIES
TO EXECUTE WORKS AFFORDING RELIEF OR
PROTECTION FROM FLOODING, LANDSLIDE,
SUBSIDENCE AND SIMILAR OCCURRENCES AND
TO PROVIDE FOR MATTERS CONNECTED WITH 10
THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :—

Interpretation.

1.—In this Act—

Minister.

the expression “the Minister” means the Minister for Local
Government ;

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permanent
construction.

the expression “permanent construction” includes roads,
bridges, houses, buildings, walls and embankments ;

road.

the word “road” means any road whether public or private
and includes any bridge, pipe, arch, gully, footway, pavement,
fence, railing or wall forming part thereof ;

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watercourse.

the word “watercourse” includes rivers, streams and other
natural watercourses, and also canals, drains, and other artificial
watercourses.

Execution of
works by local
authority.

2.—(1) This section applies to the following local authorities :

(a) the corporation of a county or other borough,

25

(b) the council of a county or an urban district.

(2) Where a local authority to whom this section applies are
of opinion that—

(a) any land owned by them, or

(b) any permanent construction which was constructed 30
by them or which they are required by law to
maintain,

has sustained or is likely to sustain damage from flooding,
landslide, subsidence or other similar occurrence, the local
authority may execute such works as they consider reasonable 35
for the purpose of affording relief or protection from the damage.

(3) Where a local authority to whom this section applies
are of opinion that—

(a) any land in their functional area, not being land owned
by them, or

40

- (b) any permanent construction in their functional area, not being a permanent construction which was constructed by them or which they are required by law to maintain,
- 5 has sustained or is likely to sustain damage from flooding, landslide, subsidence or other similar occurrence and that it is in the public interest to afford relief or protection from the damage, the local authority may execute such works as they consider reasonable for the purpose of affording such relief or
- 10 protection.

(4) The works referred to in *subsections* (2) and (3) of this section shall include, in particular—

- (a) the making of drains,
- 15 (b) the removal of substances or things causing obstructions in watercourses,
- (c) the widening or deepening of watercourses,
- (d) the making or repairing of walls or embankments,
- (e) the diversion of water into watercourses.

- (5) Where any substance or thing is removed under this
- 20 section from a watercourse, it may be deposited on land adjacent to the watercourse or the local authority may remove it, use it or dispose of it otherwise as they think fit.

3.—(1) Where the Minister is satisfied—

- (a) that particular works should be executed pursuant to
- 25 this Act by a local authority, and
- (b) that the local authority are unable or unwilling to execute such works, and
- (c) that the execution of such works is essential for the
- 30 efficiency of other works which any other local authority or local authorities are able and willing to execute pursuant to this Act,

the Minister may, after consultation with the first-mentioned local authority, by order authorise the other local authority or one of the other local authorities (as may be appropriate) to execute the

35 first-mentioned works on behalf of the first-mentioned local authority and thereupon the local authority so authorised may so execute those works.

(2) Where—

- (a) a local authority are of opinion that particular
- 40 works should be executed by them pursuant to this Act, but that it is more convenient that such works should be executed by another local authority, and
- (b) the other local authority are able and willing to execute
- 45 such works, the first-mentioned local authority and the other local authority may enter into an agreement for the execution of such works by the other local authority on behalf of the first-mentioned local authority and thereupon, but after notification of
- 50 the agreement to the Minister, the other local authority may so execute such works.

4.—(1) A local authority executing works pursuant to this Act or an order or agreement made thereunder, or any officer, servant or agent of such authority, may, subject to the

55 provisions of this section, enter on any land for the purposes of the execution of the works.

Local Authority
unable or
unwilling to
execute works,
etc.

Power of entry
on land.

(2) Before entering on land under this section for a purpose other than the execution of urgent works, a local authority executing works pursuant to this Act or an order or agreement made thereunder, shall either obtain the consent (in the case of occupied land) of the occupier, or (in the case of unoccupied land) of the owner or shall give not less than fourteen days' notice in writing of the intention, to make such entry. 5

(3) The notice referred to in subsection (2) of this section may be given to a person in any of the following ways :—

(a) by delivering it to such person, 10

(b) by leaving it at the address where such person ordinarily resides,

(c) by sending it by post in a prepaid registered letter addressed to such person at the address where he ordinarily resides, or 15

(d) by posting it at or near the land concerned.

(4) Any person to whom a notice of intention to enter on land has been given under this section may, not later than fourteen days after the giving of such notice, apply to the justice of the District Court having jurisdiction in the district in which such land is situate, on notice to the local authority by whom or on whose behalf such notice was given, for an order prohibiting the said entry on such land, and, upon the hearing of such application, such justice may, if he so thinks proper, either wholly prohibit such entry on such land or specify conditions to be observed by the person making such entry. 20 25

(5) Where a justice of the District Court prohibits under the next preceding subsection of this section a proposed entry on land, it shall not be lawful for any person to enter on such land under this section, and where a justice of the District Court specifies under the said next preceding subsection of this section conditions to be observed by persons entering on land under this section, every person who so enters on such land shall observe the conditions so specified. 30

(6) In this section the expression " urgent works " means works the immediate execution of which is, in the opinion of the local authority executing the works, necessary to prevent serious injury to any person, land or permanent construction. 35

(7) A person who obstructs or interferes with the exercise of the power conferred by subsection (1) of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. 40

Compensation.

5.—(1) Any person who suffers damage by reason of any interference, caused by the execution of works pursuant to this Act or an order or agreement made thereunder, with any land owned or occupied by him or any easement, profit-a-prendre or other right belonging to him shall, subject to the provisions of this Act, be entitled to be paid compensation in respect of such damage by the local authority who executed the works or, if that local authority executed the works on behalf of another local authority pursuant to an agreement made under this Act, by such other local authority. 45 50

(2) Every claim for compensation made under this section shall be made in writing to the local authority concerned before the expiration of the period beginning on the commencement of the works which caused the interference to which the claim relates and ending either two years thereafter or one year after the completion of such works (whichever is the later). 55

(3) In default of agreement, the amount of any compensation payable by a local authority under this section shall, if the amount 60

claimed in respect thereof does not exceed twenty pounds, be determined by the District Court or, in any other case, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919 (as amended by subsequent enactments) as if the compensation were the price of land compulsorily acquired and the court or the arbitrator, as the case may be, shall have jurisdiction to determine whether compensation is, in the circumstances, payable at all. 5

(4) In determining compensation under this section, regard shall be had to any protection or benefit enuring to the claimant by reason of the execution of the works to which the claim relates. 10

(5) A justice of the District Court when making an order under this section may at his discretion order the costs, to an amount not exceeding three guineas, incurred in relation to the proceedings by any party thereto (together with such witnesses' expenses as the justice considers reasonable) to be paid by any other party thereto. 15

(6) Where, in the case of an application to the District Court to determine the compensation to be paid under this section by a local authority, the compensation determined by the Court does not exceed that offered unconditionally by the local authority before the application was made, the Court may order that such costs and witnesses' expenses of the local authority as the Court considers reasonable shall be deducted from the compensation determined by the Court. 20 25

(7) The jurisdiction conferred by this section on the District Court shall be exercised, at the election of the claimant, by the justice within whose district the works or any part thereof were executed or by the justice within whose district the interference or any part thereof occurred. 30

Protection of Fisheries.

6.—(1) It shall not be obligatory on a local authority when executing works pursuant to this Act or an order or agreement made thereunder, to comply with the Fisheries Acts, 1842 to 1944. 35

(2) Notwithstanding the exemption conferred by subsection (1) of this section, a local authority shall, when executing works pursuant to this Act or an order or agreement made thereunder, take such precautions and make such provisions for the protection of fisheries as the Minister for Agriculture either generally or in particular cases may advise. 40

Short title.

7.—This Act may be cited as the Local Authorities (Works) Act, 1949.

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(OIBREACHA), 1949.

LOCAL AUTHORITIES (WORKS) BILL, 1949.

BILLE

BILL

dá ngairmtear

entitled

Acht dá chumasú d'údaráis áitiúla áirithe oibreacha a dhéanamh chun faoiseamh nó caomhna a thabhairt maidir le tuiliú, sleamhnú talún, ísliú talún agus teagmhais dá samhail agus do dhéanamh socrúithe i dtaobh nithe eile a bhaineas leis na nithe réamhráite.

An Act to enable certain local authorities to execute works affording relief or protection from flooding, landslide, subsidence and similar occurrences and to provide for matters connected with the matters aforesaid.

*Rite ag dhá Thigh an Oireachtais, 14ú Iúil,
1949.*

*Passed by both Houses of the Oireachtas,
14th July, 1949.*

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