



BILLE UISCEBHEALACH NA SIONAINNE, 1990
SHANNON NAVIGATION BILL, 1990

Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas

Section **ARRANGEMENT OF SECTIONS**

1. Interpretation.
2. Powers of Commissioners in relation to Shannon navigation.
3. Power of Commissioners to make bye-laws in relation to Shannon navigation.
4. Power of Commissioners to carry out works in relation to Shannon navigation and to enter land.
5. Transfer to Commissioners of Ballinamore and Ballyconnell navigation and conferral on them of certain functions in relation to Erne and Lough Oughter navigation.
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9. Vesting day.
10. Collection and disposal of moneys payable under Act.
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SCHEDULE

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act, 1919	1919, c. 57
Arterial Drainage Act, 1945	1945, No. 3
The Act of the British Parliament 2 & 3 Vict., c. 61	1839, c. 61
The Act of the British Parliament 5 & 6 Vict., c. 89	1842, c. 89
Drainage (Ireland) Act, 1856	1856, c. 62
Finance Act, 1895	1895, c. 16

Fisheries Acts, 1959 to 1983

Lands Clauses Acts

Lands Clauses Consolidation Act, 1845 1845, c. 18

Local Government (Roads and Motorways) Act, 1974 1974, No. 6

Petty Sessions (Ireland) Act, 1851 1851, c. 93

Public Offices Fees Act, 1879 1879, c. 58

Registration of Title Act, 1964 1964, No. 16

Companies Act, 1963 1963, No. 33



BILLE UISCEBHEALACH NA SIONAINNE, 1990
SHANNON NAVIGATION BILL, 1990

BILL

entitled

- 5 AN ACT TO MAKE FURTHER AND BETTER PROVISION
IN RELATION TO THE SHANNON NAVIGATION, TO
TRANSFER THE BALLINAMORE AND BALLY-
CONNELL NAVIGATION TO THE COMMISSIONERS OF
10 PUBLIC WORKS IN IRELAND, TO PROVIDE FOR ITS
RESTORATION AND MAINTENANCE BY THOSE COM-
MISSIONERS AND FOR THE MAINTENANCE OF THE
ASSOCIATED DRAINAGE WORKS BY THE COUNCILS
OF THE COUNTIES OF CAVAN AND LEITRIM, TO
15 CONFER ON THOSE COMMISSIONERS CERTAIN FUNC-
TIONS IN RELATION TO THE ERNE AND LOUGH
OUGHTER NAVIGATION AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

- 20 “boat” includes any barge, vessel or other water-craft;

“the Commissioners” means the Commissioners of Public Works in
Ireland and references to the Commissioners include references to
their servants and agents;

“land” includes any land covered by water;

- 25 “the Minister” means the Minister for Finance;

- “the navigation channel” means the parts of the Shannon navigation
referred to in *paragraph (a)* of the definition of “the Shannon navi-
gation” in this subsection, the canals and locks referred to in *paragraph*
(b) of that definition and the parts accessible to boats of the harbours
30 referred to in that paragraph;

“the Shannon Act” means the Act of the British Parliament 2 & 3
Vict., c. 61, as amended or extended;

“the Shannon navigation” means—

- 35 (a) the river Shannon, the lakes from or through which it flows,
and such of the rivers which flow into it or into those lakes
as are or have been improved or made navigable by
the Commissioners or by other persons under powers

conferred by statute, within the limits standing fixed and determined for the time being under section 39 of the Shannon Act, and

- (b) the canals, locks, harbours, wharfs, landing places, piers, quays, weirs and other works and land constructed by or vested in the Commissioners, whether before or after the passing of this Act, for the purpose of the use or improvement of any of those rivers or lakes, within the limits aforesaid, or the navigation thereof or any other purpose authorised by the Shannon Act;

“the vesting day” means the day appointed under section 9 to be vesting day.

(2) A reference in this Act to a section is to a section of this Act, unless it is indicated that reference to some other enactment is intended.

(3) A reference in this Act to a subsection or paragraph is to a subsection or paragraph of the provision in which it occurs, unless it is indicated that a reference to some other provision is intended.

(4) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any subsequent enactment.

Powers of
Commissioners in
relation to Shannon
navigation.

2.—The Commissioners shall have all such powers as are necessary for the performance of their functions under the Shannon Act and shall, without prejudice to the generality of the foregoing and to their powers under that Act, have power to undertake the care, conservation, management, control, maintenance, restoration, repair, improvement, extension and development of the Shannon navigation and to—

- (a) draw any water necessary for the purposes of the navigation channel from any natural source whatsoever,
- (b) dredge, widen, deepen, alter the course of or otherwise repair or improve the navigation channel or improve the supply of water for, or dispose of surplus water from, the navigation channel and for that purpose construct, alter, repair, improve, dredge, widen or deepen any stream, river, drain or channel carrying any water to or from the navigation channel and replace or repair any pipe carrying any such water or construct, repair or improve any pumping station required for such water,
- (c) remove any structure or other thing that is obstructing or is likely to obstruct the navigation channel or so alter it as to eliminate the obstruction or the likelihood of obstruction,
- (d) prohibit the building of bridges, weirs or other structures on, in or over, or culverts, pipes or drains under, the navigation channel without the consent of the Commissioners,
- (e) construct, alter, underpin, repair or improve any lock, quay, harbour, dry dock, weir, fish pass, slipway, navigation aid, pumping station, hydroelectric station and ancillary works, building, towpath, bridge, aqueduct, embankment, culvert, pipe or drain or road (other than a public road within the meaning of the Local Government (Roads

and Motorways) Act, 1974) on, over, beside or under the navigation channel,

- 5 (f) acquire, by agreement, or compulsorily in accordance with the Schedule to this Act, any land required for the purposes of the Shannon navigation and any right, easement, title or interest of any kind in, over or in respect of such land,
- 10 (g) without prejudice to the right of any person to use water of or abstract water from the navigation channel, alter the water levels of the navigation channel,
- (h) close to navigation any part of the navigation channel not required for navigation or close temporarily any part thereof and open or reopen and declare navigable any part of the navigation channel previously closed to navigation,
- 15 (i) with the agreement of any person entitled to any payment in respect of an acquisition under *paragraph (f)* or any payment under *section 4 (3) (a)*, carry out remedial or other works in relation to the Shannon navigation or any property of the person in lieu of the whole or part of the
- 20 payment.

25 3.—(1) The Commissioners may make bye-laws for the care, conservation, management, control and maintenance and the regulation of the use of the Shannon navigation and in relation to the restoration, repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters:

Power of Commissioners to make bye-laws in relation to Shannon navigation.

- (a) the regulation of the conditions (including conditions as to safety) under which boats may be used in the navigation channel,
- 30 (b) the closing to navigation either temporarily or permanently of any part of the navigation channel,
- (c) the opening or reopening to navigation of any part of the navigation channel not open to navigation,
- (d) the alteration of water levels of the navigation channel,
- 35 (e) the regulation of bathing in the navigation channel,
- (f) the prohibition of the building of bridges, weirs or other structures on, in or over, or culverts, pipes or drains under, the navigation channel without the consent of the Commissioners,
- 40 (g) the prohibition of the use, save under and in accordance with a licence in that behalf granted by the Commissioners and containing such (if any) conditions as they consider necessary or expedient, of the Shannon navigation or any part of it,
- 45 (h) without prejudice to the rights of any person to use water of or abstract water from the navigation channel, the regulation or prohibition of the use of water of, or the abstraction of water from, the navigation channel,

- (i) subject to *subsection (4)*, the regulation of fishing in the navigation channel,
 - (j) the prevention of damage to the Shannon navigation or the obstruction of the navigation channel,
 - (k) the removal from or the prohibition of the passage through or use in the navigation channel of, or the use of any of the facilities or installations of the Shannon navigation by, any boat or thing which is or may become a danger to life, health, navigation or fish stocks or would otherwise interfere with the proper use of the Shannon navigation or in relation to which a fee, toll or charge due and payable under the bye-laws has not been paid or arrangements for its payment, acceptable to the Commissioners, have not been made,
 - (l) the fixing, altering, charging and recovery of fees, tolls and charges in respect of—
 - (i) the use by boats of the navigation channel or the facilities or installations of the Shannon navigation, whether for the purpose of their passage through the navigation or for the purposes of their being anchored, moored, tied up or laid up or for any other purpose, or
 - (ii) the use of water of or the abstraction of water from the navigation channel,
 and the prohibition of the use referred to in *subparagraph (i)* or the use or abstraction referred to in *subparagraph (ii)* without payment of any fee, toll or charge payable under this paragraph in respect thereof or the making of arrangements, acceptable to the Commissioners, for its payment,
 - (m) the establishment and maintenance by the Commissioners of a register in which entries containing specified information will be required to be made annually or at other specified times, on application in that behalf by their owners, in respect of boats or specified classes of boats using the Shannon navigation, the payment of fees by the owners of the boats concerned in respect of the entries and the prohibition of the use of the Shannon navigation by boats required to be, but not, registered in the register.
- (2) Bye-laws under this section may contain such incidental, subsidiary and ancillary provisions as the Commissioners consider necessary or expedient for the purposes of the bye-laws.
- (3) The Commissioners may, by bye-laws under this section, exercise from time to time as occasion requires the powers conferred on them by section 39 of the Shannon Act to fix and determine the limits of the river Shannon, and the rivers flowing into it that are improved under the Shannon Act, within which the other powers conferred on the Commissioners by the Shannon Act may be exercised.
- (4) Bye-laws under this section shall not be made in relation to any matter in respect of which regulations or bye-laws may be made under the Fisheries Acts, 1959 to 1983.

(5) A person who contravenes a bye-law under this section shall be guilty of an offence and shall be liable—

5 (a) on summary conviction, to a fine not exceeding £1,000 (together with, in the case of a continuing contravention, a fine not exceeding £100 for every day on which the contravention is continued and not exceeding in total an amount which, when added to any other fine under this paragraph in relation to the contravention concerned, equals £1,000) or to imprisonment for any term not exceeding 6 months or to both,

15 (b) on conviction on indictment, to a fine not exceeding £5,000 (together with, in the case of a continuing contravention, a fine not exceeding £500 for every day on which the contravention is continued) or to imprisonment for any term not exceeding 2 years or to both.

20 (6) Where an offence to which *subsection (5)* relates is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person being a director, manager or secretary of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

25 (7) (a) The Commissioners may bring proceedings for a summary offence under this section.

(b) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence to which *subsection (5)* or (6) relates may be instituted within 12 months from the date of the offence.

30 4.—(1) (a) The Commissioners may, for the purposes of their functions under this Act—

Power of Commissioners to carry out works in relation to Shannon navigation and to enter land.

(i) enter on any land and carry out on the land work in relation to the Shannon navigation or property vested in them for the purpose of the navigation,

35 (ii) enter on any land and occupy it or otherwise make use of it for the purpose of carrying out work on other land in relation to the Shannon navigation or the property aforesaid,

40 (iii) enter on any land for the purpose of gaining access to, inspecting or surveying the Shannon navigation, the said property or land specified in *paragraph (a)* or *(b)*,

45 and do on any such land all such other things as are, in their opinion, ancillary or reasonably necessary for the purposes aforesaid.

50 (b) Not less than 14 days before exercising any power under *paragraph (a)* (other than *subparagraph (iii)*) the Commissioners shall give to any owner or occupier of the land concerned whose identity and whereabouts can be ascertained by the Commissioners by the taking of reasonable steps a notice in writing stating their intention to enter on the land and the

purposes for which the entry is intended to be made and specifying the other powers proposed to be exercised.

(c) A person to whom a notice has been given under this subsection may, not later than 14 days after the giving of the notice, apply, on notice to the Commissioners, to the justice of the District Court having jurisdiction in the District Court district in which the land is situated for an order prohibiting the entry and, upon the hearing of the application, the justice may, if he so thinks proper, either prohibit the entry or specify conditions to be complied with by the person making the entry.

(d) Where a justice of the District Court prohibits under this subsection a proposed entry onto land, it shall not be lawful for any person to enter under *paragraph (a)* onto the land, and where a justice of the District Court specifies under this subsection conditions to be complied with by a person entering onto land, every person who enters onto the land under *paragraph (a)* shall comply with the conditions so specified.

(2) (a) Where, in the opinion of the Commissioners—

(i) the exercise of a power conferred on them by *subsection (1)* is urgently required for the purpose of preventing or minimising injury, loss or damage to persons or property, and

(ii) it is not reasonably possible to comply, in relation to such exercise, with *paragraph (b)* of that subsection,

the Commissioners may exercise the power without having complied in relation to such exercise, with that paragraph.

(b) Before exercising a power by virtue of this subsection, the Commissioners shall give to any owner or occupier of the land whose identity and whereabouts can be ascertained by the Commissioners by the taking of reasonable steps notice of their intention to enter on the land, of the purposes for which the entry is intended to be made and of the other powers proposed to be exercised.

(c) Where, in the opinion of the Commissioners, it is not reasonably possible to comply with *paragraph (b)*, the Commissioners may exercise the power concerned without having complied therewith and, as soon as may be thereafter, shall give to any owner or occupier of the land concerned whose identity and whereabouts can be ascertained by the Commissioners by the taking of reasonable steps a notice in writing specifying the powers exercised and the purposes of such exercise.

(3) (a) Where a person (other than a person whose land is acquired under *section 2 (f)*) suffers loss, injury or damage or incurs expenditure in consequence of the exercise by the Commissioners of a power conferred on them by this section or *section 2*, the Commissioners shall pay to him compensation in respect of the loss, injury, damage or expenditure and the amount of the compensation shall, in default of agreement, be determined by arbitration under

and in accordance with the Lands Clauses Acts and, for the purposes of those Acts, the Commissioners shall be deemed to be the promoter of the undertaking and this Act and the vesting order concerned shall be deemed to be the special Act; and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except insofar as they are inconsistent with and subject to any amendments or modifications, express or implied, thereof effected by this Act) with this Act.

(b) In assessing the compensation payable to a person under paragraph (a), regard shall be had to any benefit to any property of the person that arises or may reasonably be expected to arise from the exercise of the power concerned or any other power under this section or the said section 2 by the Commissioners and, in particular but without prejudice to the generality of the foregoing, shall, in the case of a claim for compensation in relation to water rights, have regard to the extent of the exercise of the water rights during the period of 20 years immediately before the exercise of the power concerned by the Commissioners and to any alternative water supply provided for the person by the Commissioners.

5.—(1) On the vesting day—

(a) so much of the Ballinamore and Ballyconnell navigation as is situated in the State and the property (including choses-in-action), assets, powers, rights, licences, privileges and liabilities vested in, held, enjoyed or incurred by the navigation trustees in connection therewith or appertaining thereto shall, by virtue of this section but subject where necessary to transfer in the books of any bank, corporation or company, be transferred to the Commissioners,

Transfer to Commissioners of Ballinamore and Ballyconnell navigation and conferral on them of certain functions in relation to Erne and Lough Oughter navigation.

(b) so much of the land of the said navigation as is situated in the State shall, by virtue of this section, vest in the Commissioners for all the estate, right, title and interest of the navigation trustees, and

(c) the said navigation and the Erne and Lough Oughter navigation shall be deemed, for the purposes of the Shannon Act and this Act, to be part of the Shannon navigation and the River Shannon and that Act and this Act shall apply and have effect accordingly in relation to the Ballinamore and Ballyconnell navigation and the Erne and Lough Oughter navigation with the modifications that—

(i) the functions conferred on the Commissioners by or under the said Acts may be performed in relation to the Ballinamore and Ballyconnell navigation and the Erne and Lough Oughter navigation by them or, if, whenever and in so far as they are delegated to a person under subsection (9), by the person either in or outside the State,

(ii) references in this Act to the navigation channel shall be construed as references to—

(I) the Ballinamore and Ballyconnell navigation

other than the wharfs, landing places, piers, quays, weirs and other works and land referred to in the definition of the navigation in *subsection (12)* and the parts of the harbours referred to in that definition not accessible to boats, and 5

(II) the Erne and Lough Oughter navigation other than the quay referred to in the definition of the navigation in *subsection (12)*,

and with any other necessary modifications.

(2) Subject to the provisions of this Act, the Commissioners may, 10
on and after the vesting day, enjoy, exercise and enforce all the powers, rights and privileges aforesaid and shall be subject to all the liabilities aforesaid and, accordingly, every debt and other liability in relation to the Ballinamore and Ballyconnell navigation that, immediately before the vesting day, is owing and unpaid or has been incurred 15
and is undischarged by the navigation trustees shall, on the vesting day, become and be the debt or liability of the Commissioners and shall be paid or discharged by and may be recovered from and enforced against the Commissioners accordingly.

(3) For the purpose of providing adequate and safe access for 20
vessels in Upper Lough Erne to the Ballinamore and Ballyconnell navigation and to the Erne and Lough Oughter navigation and for vessels in those navigations to Upper Lough Erne, the Commissioners may carry out such dredging, excavation and other work in Upper Lough Erne and the River Erne as they consider necessary or 25
expedient.

(4) (a) Every contract made by the navigation trustees in relation to the Ballinamore and Ballyconnell navigation that is in force immediately before the vesting day shall continue in force on and after the vesting day as if it had been made 30
by the Commissioners and shall be construed and have effect and be enforceable by or against the Commissioners accordingly.

(b) Every licence given by the navigation trustees in relation to the Ballinamore and Ballyconnell navigation that is in 35
force immediately before the vesting day shall continue in force on and after the vesting day as if it had been given by the Commissioners and shall be construed and have effect and be enforceable by or against the Commissioners accordingly. 40

(c) Every other document granted or made by the navigation trustees in relation to the Ballinamore and Ballyconnell navigation that is in force immediately before the vesting day shall continue in force on and after the vesting day as if it had been granted or made by the Commissioners and 45
shall be construed and have effect and be enforceable by or against the Commissioners accordingly.

(5) Every chose-in-action transferred by this section may, on or after the vesting day, be sued upon, recovered or enforced by the Commissioners in their own name and it shall not be necessary for 50
the Commissioners to give notice to the persons bound by any such chose-in-action of the transfer effected by this section.

(6) References to the navigation trustees contained, immediately before the vesting day, in any statute or instrument made under statute

or in the memorandum or articles of association of any company shall, insofar as they relate to anything transferred by this section, be construed on and after the vesting day as references to the Commissioners.

- 5 (7) Section 12 of the Finance Act, 1895, shall not apply to the vesting of any property or rights under this section.

(8) Nothing in this section shall cause the Commissioners to be regarded as a canal undertaker or a canal company for the purposes of this or any other enactment.

- 10 (9) (a) The functions or specified functions of the Commissioners under this Act (other than *sections 2 (f) and 3* and the Schedule to this Act) in relation to the restoration, repair, improvement, extension and development of the Bal-
15 linamore and Ballyconnell navigation or any part thereof may be delegated for a specified period by the Minister by order to such person or persons as may be specified in the order.

(b) The following provision shall have effect in relation to the delegation of a function to a person under *paragraph (a)*:

- 20 (i) the function shall be performed by the person in his own name but subject to the general superintendence and control of the Minister;

(ii) the delegation shall operate, while it is in force, to confer the function on and vest it in the person;

- 25 (iii) the function shall, notwithstanding the delegation, continue to be vested in the Commissioners but shall be so vested concurrently with the person and so as to be capable of being performed by the Commissioners or the person;

- 30 (iv) the delegation shall not remove or derogate from the responsibility of the Minister to Dáil Éireann or as a member of the Government for the performance of the function by the Commissioners.

- 35 (c) The Minister may revoke or amend an order under this subsection.

(d) An order under this subsection may contain such ancillary or subsidiary provisions as the Minister considers necessary or expedient including provisions adapting provisions of this Act.

- 40 (e) The Commissioners may, with the consent of the Minister, out of moneys provided by the Oireachtas, make payments of such amounts as they consider appropriate to a person to whom functions are delegated under *paragraph (a)* in respect of expenditure incurred by the person in the
45 performance of those functions.

(10) The Commissioners shall consult with the Minister for the Marine in relation to any matters which affect or could affect fish, fish life, fish stocks or fishing in the Ballinamore and Ballyconnell navigation or the Erne and Lough Oughter navigation.

- 50 (11) Sections 6, 16 to 25, 27 and 29 to 36 of the Act of 1856 are hereby repealed in so far as they relate to the Ballinamore and Ballyconnell navigation or the navigation trustees.

(12) In this section—

"the Act of 1856" means the Drainage (Ireland) Act, 1856;

"the Ballinamore and Ballyconnell navigation" means the navigation connecting the river Shannon at a point near Leitrim in the county of Leitrim and Upper Lough Erne at the mouth of the Woodford River near Belturbet in the county of Cavan and passing through Ballinamore in the county of Leitrim and Ballyconnell in the county of Cavan together with the locks, harbours, wharfs, landing places, piers, quays, weirs and other works and land therein or connected therewith that, immediately before the vesting day, stood vested in the navigation trustees under section 2 of the Act of 1856;

"the Erne and Lough Oughter navigation" means—

- (a) the Foalies Cut connecting Upper Lough Erne with the River Erne,
- (b) that part of Upper Lough Erne that is situated north west of the Foalies Cut and between the Foalies Cut and the land frontier of the State, and
- (c) the River Erne upstream from Upper Lough Erne and the quay on that river at Kilconny, Belturbet in the county of Cavan;

"functions" includes powers and duties and references to the performance of functions include, as respects powers, duties and obligations, references to the exercise of the powers and the carrying out of the duties and obligations;

"the navigation trustees" means the Ballinamore and Ballyconnell Navigation Trustees incorporated under the Act of 1856 and in whom the Ballinamore and Ballyconnell navigation was vested under section 2 of that Act.

Application of Arterial Drainage Act, 1945, to Ballinamore and Ballyconnell drainage district.

6.—(1) The Act shall apply in relation to the Ballinamore and Ballyconnell drainage district as if that district were an existing drainage district and subject to the modification that the appointed day shall be deemed to be the day immediately preceding the vesting day and any other necessary modifications.

(2) In this section—

"the Act" means the Arterial Drainage Act, 1945;

"the appointed day" has, subject to *subsection (1)*, the same meaning as in Part III of the Act;

"existing drainage district" has the same meaning as in Part III of the Act;

"the Ballinamore and Ballyconnell drainage district" means the lands in the districts of Ballinamore in the county of Leitrim and Ballyconnell in the county of Cavan—

- (a) in relation to which works for their drainage and improvement were carried out by the Commissioners under the Act of the British Parliament 5 & 6 Vict., c. 89, as amended, and
- (b) which are the subject of the award made by the Commissioners under that Act on the 6th day of March, 1860.

7.—(1) If in any respect any difficulty arises in bringing any provision of this Act into operation, the Minister may by regulations do anything which appears to him to be necessary or expedient for the purposes of removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation and any such regulations may modify the provisions of this Act or any other enactment so far as may be necessary or expedient for the purposes aforesaid.

Power to remove difficulties.

(2) No regulations shall be made under this section after the expiration of 5 years from the vesting day.

8.—Every order, other than an order under section 9, and regulation made by the Minister and every bye-law made by the Commissioners under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order, regulation or bye-law is passed by either such House within the next 21 days on which that House has sat after the order, regulation or bye-law is laid before it, the order, regulation or bye-law shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Laying of orders, regulations and bye-laws before Houses of the Oireachtas.

9.—The Minister shall by order appoint a day to be the vesting day for the purposes of this Act.

Vesting day.

10.—(1) All fees and other moneys payable to the Commissioners under this Act shall be collected and taken in such manner as the Minister may from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister.

Collection and disposal of moneys payable under Act.

(2) The Public Offices Fees Act, 1879, shall not apply in respect of fees mentioned in subsection (1).

11.—The expenses incurred by the Commissioners in the administration of this Act shall, to such extent as may be sanctioned by the Minister, be paid out of moneys provided by the Oireachtas.

Expenses.

12.—This Act may be cited as the Shannon Navigation Act, 1990.

Short title.

SCHEDULE

Section 2.

COMPULSORY ACQUISITION OF LAND

1. (1) Where the Commissioners propose to acquire any land compulsorily under this Act, they shall—

(a) deposit in a Garda Síochána station in the district in which the land is situated a map or plan of the land and make the map or plan available there for inspection by members of the public at all reasonable times,

(b) publish a notice stating their intention to acquire the land compulsorily under this Act in a newspaper circulating in that district,

- (c) before publishing the notice aforesaid, in case all the land proposed to be acquired is in the occupation of the same person or persons, post a notice stating their intention to acquire the land compulsorily on or near the land and, in any other case, post such notice on or near the land of each occupier, and 5
- (d) give a copy of the notice referred to in *subparagraph (c)* to—
 - (i) every (if any) occupier of the land, and
 - (ii) every (if any) owner of the land,
 whose name and the address at which he ordinarily resides can be ascertained by the Commissioners by reasonable inquiries.
- (2) The notices referred to in *subparagraph (1)*—
 - (a) shall be in the prescribed form, 15
 - (b) shall, if they do not contain a map or plan of the land to which they refer, state that a map or plan of the land is deposited in a Garda Síochána station aforesaid and may be inspected there by members of the public at all reasonable times, 20
 - (c) shall state that an objection by any occupier or owner of the land to the acquisition of the land may be submitted to the Commissioners, and
 - (d) shall state the time within which an objection aforesaid may be submitted to the Commissioners. 25
- 2. (1) The occupier or any owner of land in respect of which a notice under *paragraph 1 (1) (b)* has been published may, within two months after the date of such publication, submit to the Commissioners an objection in writing to the proposed compulsory acquisition referred to in the notice. 30
- (2) An objection under *subparagraph (1)* may be withdrawn by the person who submitted it by notice in writing sent to the Commissioners or to the Minister.
- (3) (a) Where, in relation to the proposed compulsory acquisition of land under this Act, an objection is submitted to the Commissioners in accordance with *subparagraph (1)* and is not withdrawn, the objection shall be considered by the Minister and the land shall not be acquired compulsorily without the consent of the Minister. 35
- (b) Where a public right of way exists over land proposed to be compulsorily acquired under this Act, the land shall not be acquired compulsorily without the consent of the Minister. 40
- (4) An application by the Commissioners for the consent of the Minister to the compulsory acquisition of land under this Act shall be accompanied by— 45
 - (a) a copy of any objection concerned under *subparagraph (1)*,

- (b) a copy of the newspaper containing the notice specified in *paragraph 1 (1) (b)*,
- (c) a copy of the notice specified in *paragraph 1 (1) (c)*, and
- (d) a copy of the map or plan of the land deposited in pursuance of *paragraph 1 (1) (a)*,

and the Commissioners shall furnish to the Minister such other information in relation to the acquisition as the Minister may require.

(5) On an application under *subparagraph (4)* in relation to land—

- (a) in case the Minister is of opinion that the provisions of *paragraph 1* have not been complied with in relation to the land or part of the land, he shall refuse to grant his consent to the compulsory acquisition of the land or, as the case may be, refuse to grant his consent to the compulsory acquisition of the part and grant his consent to the acquisition of the remainder of the land,
- (b) in any other case, the Minister shall grant his consent to the compulsory acquisition of the land.

3. (1) Where, in relation to any land in respect of which the provisions of *paragraph 1* have been complied with—

- (a) no objection is submitted to the Commissioners in accordance with *paragraph 2*,
- (b) any objection which is submitted as aforesaid is subsequently withdrawn, or
- (c) the Minister gives his consent to the compulsory acquisition thereof by the Commissioners,

the Commissioners may by order (in this Schedule referred to as "a vesting order") acquire the land.

(2) Where the Commissioners, before making a vesting order, become aware that the land to be acquired by the order is subject (whether alone or in conjunction with other land) to any annuity or other payment to the Irish Land Commission or to any charge for estate duty, succession duty or inheritance tax payable to the Revenue Commissioners on the death of any person, the Commissioners shall forthwith inform the Irish Land Commission or the Revenue Commissioners, as the case may be, of the intention to make the order.

(3) Whenever the Commissioners make a vesting order, they shall within 14 days after making the order—

- (a) in case all the land comprised in the vesting order is in the occupation of the same person, or persons, post a notice containing a copy of the order on or near the land and, in any other case, post such notice on or near the land of each occupier, and
- (b) give a copy of the order to—

(i) every (if any) occupier of the land, and

(ii) every (if any) owner of the land,

whose name and the address at which he ordinarily resides can be ascertained by the Commissioners by reasonable inquiries.

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4. (1) A vesting order shall be in the prescribed form and shall be expressed and shall operate to vest the land to which it relates in the Commissioners in fee simple free from encumbrances and all estates, rights, easements, titles and interests of any kind over or in respect of the land on a specified date not earlier than 21 days after the making of the order.

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(2) Notwithstanding anything contained in *subparagraph (1)*, where the Commissioners acquire by a vesting order land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent, or other annual sum (not being merely a rent under a contract of tenancy) payable to the Irish Land Commission, the Commissioners shall become and be liable, as from the date on which the land is vested in them by the vesting order, for the payment to the Irish Land Commission of the purchase annuity, payment in lieu of rent or annual sum or such portion thereof as shall be apportioned by the Irish Land Commission on the land as if the land had been transferred to the Commissioners by the owner thereof on that date.

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(3) When the Commissioners make a vesting order in relation to land, they shall send the order to the registering authority under the Registration of Title Act, 1964, and thereupon the registering authority shall cause the Commissioners to be registered under that Act as owners of the land in accordance with the order.

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5. (1) Where, immediately before a vesting order is made by the Commissioners, any person has any estate, right, easement, title or interest of any kind in, over or in respect of the land acquired by the order, the person may apply to the Commissioners at any time after the making of the order for compensation in respect of the estate, right, easement, title or interest and the Commissioners shall, subject to *subparagraph (3)*, thereupon pay to the person compensation in respect of the estate, right, easement, title or interest together with interest at such rate as the Minister may determine from time to time, on the amount from that date to the date of payment thereof.

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(2) The amount of any compensation to be paid under this paragraph shall be determined under and in accordance with the Lands Clauses Acts and, for the purposes of these Acts, the Commissioners shall be deemed to be the promoter of the undertaking and this Act and the vesting order concerned shall be deemed to be the special Act; and, for the purposes of such determination, those Acts shall apply with any other necessary modifications and are incorporated (except in so far as they are inconsistent with and subject to any amendments or modification, express or implied, thereof effected by this Act) with this Act.

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(3) In assessing the compensation payable to a person under this paragraph, regard shall be had to any benefit to any property (whether or not it is the property in respect of which such compensation is claimed) of the person that arises, or may reasonably be expected to arise, from the carrying out of any works in relation to the Shannon navigation by the Commissioners and, in particular—

- (a) in the case of compensation in respect of water rights, have regard to any alternative water supply provided for the person by the Commissioners, and
- 5 (b) in the case of compensation in respect of interference with water or a watercourse intended to provide power for any purpose, have regard to the extent to which power was so provided during the period of 20 years immediately before the date of the making of the vesting order concerned and shall also have regard to any alternative source of power
- 10 provided for the person by the Commissioners.
- (4) (a) The Minister may by regulations, in such cases (if any) and to such extent as he considers necessary for the purposes of *section 4 (3)* apply all or any of the provisions of sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, as if compensation under the said *section 4 (3)* were purchase
- 15 money or compensation under the said Act, as if the Commissioners were the promoter of the undertaking and with any other necessary modifications.
- (b) Where money is paid into court under the said section 69,
- 20 as applied by this section, by the Commissioners, no costs shall be payable by them to any person in respect of any proceedings for the investment, payment of income or payment of capital of such money.
6. A document in writing referred to in *paragraph 1 (1) (d)* or
- 25 3 (3) (b) and a notice in writing under *section 4* may be given to the person concerned—
- (a) by delivering it to him,
- (b) by leaving it at the address at which the person ordinarily resides, or
- 30 (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he ordinarily resides or, in the case of a company (within the meaning of the Companies Act, 1963) at its registered office or, in the case of any other body, at its principal office or place of
- 35 business.
7. In this Schedule—
- “owner”, in relation to land, includes a reputed owner of the land;
- “prescribed” means prescribed by regulations made by the Minister.

BILLE

dá ngairtear

Acht do dhéanamh socrú breise agus feabhsaithe i ndáil le huiscebhealach na Sionainne, d'aistriú uiscebhealach Bhéal an Átha Móir agus Bhéal Átha Conaill chuig Coimisinéirí na nOibreacha Poiblí in Éirinn, do dhéanamh socrú chun é a athchóiriú agus a chothabháil ag na Coimisinéirí sin agus chun na hoibreacha draenála comhbhainteacha a chothabháil ag Comhairlí Chontaetha an Chabháin agus Liatroma, do thabhairt feidhmeanna áirithe do na Coimisinéirí sin i ndáil le huiscebhealach na hÉirne agus Loch Uachtair agus do dhéanamh socrú le haghaidh nithe gaolmhara.

*Ritheadh ag dhá Theach an Oireachtais,
11 Iúil, 1990*

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entitled

An Act to make further and better provision in relation to the Shannon navigation, to transfer the Ballinamore and Ballyconnell navigation to the Commissioners of Public Works in Ireland, to provide for its restoration and maintenance by those Commissioners and for the maintenance of the associated drainage works by the Councils of the Counties of Cavan and Leitrim, to confer on those Commissioners certain functions in relation to the Erne and Lough Oughter navigation and to provide for related matters.

*Passed by both Houses of the Oireachtas,
11th July, 1990*

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