

Development and Road Improvement Funds
Act, 1909.

[9 EDW. 7. CH. 47.]

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A.D. 1909.

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CHAPTER 47.

An Act to promote the Economic Development of the United Kingdom and the Improvement of Roads therein. A.D. 1909.
[3rd December 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

DEVELOPMENT.

1.—(1) The Treasury may, upon the recommendation of the Development Commissioners appointed under this Act, make advances to a Government department, or through a Government department to a public authority, university, college, school, or institution, or an association of persons or company not trading for profit, either by way of grant or by way of loan, or partly in one way and partly in the other, and upon such terms and subject to such conditions as they may think fit, for any of the following purposes :—

Power to make advances for certain purposes.

- (a) Aiding and developing agriculture and rural industries by promoting scientific research, instruction and experiments in the science, methods and practice of agriculture (including the provision of farm-institutes), the organisation of co-operation, instruction in marketing produce, and the extension of the provision of small holdings ; and by the adoption of any other means which appear calculated to develop agriculture and rural industries ;
- (b) Forestry (including (1) the conducting of inquiries, experiments, and research for the purpose of promoting forestry and the teaching of methods of afforestation ; (2) the purchase and planting of land found after inquiry to be suitable for afforestation) ;
- (c) The reclamation and drainage of land ;

- A.D. 1909. — (d) The general improvement of rural transport (including the making of light railways but not including the construction or improvement of roads);
(e) The construction and improvement of harbours;
(f) The construction and improvement of inland navigations;
(g) The development and improvement of fisheries;

and for any other purpose calculated to promote the economic development of the United Kingdom.

(2) All applications for advances under this Part of this Act shall be made to the Treasury in accordance with regulations made by the Treasury.

- S Edw. 7. c. 36. (3) No advance shall be made for any purpose which might be carried out under the provisions of the Small Holdings and Allotments Act, 1908, upon any terms or conditions different from those contained in that statute except for some special reason which shall be stated in the annual report of the Development Commissioners.

Establishment
of develop-
ment fund.

2.—(1) All advances, whether by way of grant or by way of loan, made under this Part of this Act shall be made out of a fund, called the development fund, into which shall be paid—
(a) Such moneys as may from time to time be provided by Parliament for the purposes of this Part of this Act;
(b) The sums issued out of the Consolidated Fund under this section; and
(c) Any sums received by the Treasury by way of interest on or repayment of any advance made by way of loan under this Part of this Act, and any profits or proceeds derived from the expenditure of any advance which by the terms on which the advance was made are to be paid to the Treasury.

(2) There shall be charged on and issued out of the Consolidated Fund, or the growing produce thereof, in the year ending the thirty-first day of March nineteen hundred and eleven, and in each of the next succeeding four years, the sum of five hundred thousand pounds.

(3) The Treasury may accept any gifts made to them for all or any of the purposes for which advances may be made under this Part of this Act and, subject to the terms of gift, apply them for the purposes of this Part of this Act in accordance with regulations made by the Treasury.

(4) The Treasury shall cause an account to be prepared and transmitted to the Comptroller and Auditor-General for examination, on or before the thirtieth day of September in every year, showing the receipts into and issues out of the development fund in the financial year ended on the thirty-first day of March preceding, and the Comptroller and Auditor-General shall certify and report upon the same, and such account and report shall be laid before Parliament by the Treasury on or before the thirty-first day of January in the following year if Parliament

be then sitting, and, if not sitting, then within one week after Parliament shall be next assembled. A.D. 1909.

(5) Payments out of and into the development fund, and all other matters relating to the fund and the moneys standing to the credit of the fund, shall be made and regulated in such manner as the Treasury may by minute to be laid before Parliament direct.

(6) The Treasury may from time to time invest any moneys standing to the credit of the development fund in any securities in which trustees are by law authorised to invest trust funds.

3.—(1) For the purposes of this Part of this Act it shall be lawful for His Majesty by warrant under the sign manual to appoint five Commissioners, to be styled the Development Commissioners, of whom one to be appointed by His Majesty shall be chairman. Constitution of Development Commissioners

(2) Subject to the provisions of this section, the term of office of a Commissioner shall be ten years. One Commissioner shall retire every second year, but a retiring Commissioner may be reappointed. The order in which the Commissioners first appointed are to retire shall be determined by His Majesty. On a casual vacancy occurring by reason of the death, resignation, or incapacity of a Commissioner, or otherwise, the person appointed by His Majesty to fill the vacancy shall continue in office until the Commissioner in whose place he was appointed would have retired, and shall then retire.

(3) There shall be paid to not more than two of the Commissioners such salaries, not exceeding in the aggregate three thousand pounds in each year, as the Treasury may direct.

(4) The Commissioners may act by three of their number and notwithstanding a vacancy in their number, and, subject to the approval of the Treasury, may regulate their own procedure.

(5) The Commissioners may, with the consent of the Treasury, appoint and employ such officers and servants for the purposes of this Part of this Act as they think necessary, and may remove any officer or servant so appointed and employed, and there shall be paid to such officers and servants such salaries or remuneration as the Commissioners, with the consent of the Treasury, may determine.

(6) The salaries of the Commissioners and the salaries or remuneration of their officers and servants, and any expenses incurred by the Commissioners in the execution of their duties under this Part of this Act, to such amount as may be sanctioned by the Treasury, shall be defrayed out of the development fund.

4.—(1) Every application for an advance under this Part of this Act, whether by way of grant or by way of loan, by any body qualified to receive an advance under this Part of this Act, shall, if the applicant is a Government Department, be referred by the Treasury to the Development Commissioners, and, if the applicant is any other body or persons, shall be sent by the Powers and duties of Commissioners.

A.D. 1909. Treasury to the Government Department concerned, to be by them referred together with their report thereon to the Development Commissioners.

(2) The Commissioners shall consider and report to the Treasury on every application so referred to them, and may for that purpose, if necessary, hold inquiries either by themselves, or by any of their officers, or any other person appointed for the purpose.

(3) The Commissioners may also appoint advisory committees, and may submit to any such advisory committee for their advice any application referred to them.

(4) The Commissioners may also frame schemes with respect to any of the matters for which advances may be made under this Part of this Act with a view to their adoption by a Government Department or other body or persons to whom an advance may be made.

(5) Before making any recommendation for an advance for the purpose of the improvement of rural transport, the Commissioners shall consult with the Road Board.

(6) The Commissioners shall make to the Treasury an annual report of their proceedings, and such report shall be laid annually before Parliament by the Treasury.

Power to
acquire land
for certain
purposes

5.—(1) Where an advance is made under this Part of this Act for any purpose which involves the acquisition of land, the Department, body, or persons to whom the advance is made, may acquire and hold land for the purpose, and, where they are unable to acquire by agreement on reasonable terms any land which they consider necessary, they may apply to the Development Commissioners for an order empowering them to acquire the land compulsorily in accordance with the provisions of the Schedule to this Act, and the Commissioners shall have power to make such order.

(2) No land shall be authorised by an order under this section to be acquired compulsorily which, at the date of the order, forms part of any park, garden, or pleasure ground, or forms part of the home farm attached to and usually occupied with a mansion house, or is otherwise required for the amenity or convenience of any dwelling-house, or which at that date is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or is the site of an ancient monument or other object of archaeological interest.

(3) The Commissioners, in making an order for the compulsory purchase of land, shall have regard to the extent of land held or occupied in the locality by any owner or tenant and to the convenience of other property belonging to or occupied by the same owner or tenant, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner or tenant, and for that purpose where part only of a holding is taken shall take into consideration the size and

character of the existing agricultural buildings not proposed to be taken which are used in connexion with the holding and the quantity and nature of the land available for occupation therewith, and shall also so far as practicable avoid displacing any considerable number of agricultural labourers or others employed on or about the land. A.D. 1909.

6. For the purposes of this Part of this Act the expression "agriculture and rural industries" includes agriculture, horticulture, dairying, the breeding of horses, cattle, and other live stock and poultry, the cultivation of bees, home and cottage industries, the cultivation and preparation of flax, the cultivation and manufacture of tobacco, and any industries immediately connected with and subservient to any of the said matters. Definition of agriculture and rural industries

PART II.

ROAD IMPROVEMENT.

7.—(1) For the purposes of improving the facilities for road traffic in the United Kingdom and of the administration of the road improvement grant provided under any Act passed in the present or any future session of Parliament, there shall be constituted in accordance with regulations made by the Treasury a board, to be called the Road Board, consisting of such number of persons appointed by the Treasury as the Treasury may determine. Constitution of Road Board

(2) The Road Board shall be a body corporate with a common seal, with power to hold land without licence in mortmain.

(3) The Road Board may pay the chairman or vice-chairman of the Board such salary as the Board, with the consent of the Treasury, may determine.

(4) The Road Board may appoint such officers and servants for the purposes of their powers and duties under this Part of this Act as the Board may, with the sanction of the Treasury, determine, and there shall be paid to such officers and servants out of the road improvement grant such salaries or remuneration as the Treasury may determine.

8.—(1) The Road Board shall have power, with the approval of the Treasury— Powers of Road Board.

(a) to make advances to county councils and other highway authorities in respect of the construction of new roads or the improvement of existing roads ;

(b) to construct and maintain any new roads ;

which appear to the Board to be required for facilitating road traffic.

(2) Where advances have been made to highway authorities in respect of the construction of new roads, the Road Board may, where they think it desirable, also contribute towards the cost of maintenance of such new roads.

A.D. 1909. (3) The sums expended by the Road Board out of income on the construction of new roads or the acquisition of land, or in respect of any loan raised for any such purpose, shall not in any year exceed one-third of the estimated receipts of the Road Board for that year.

(4) An advance to a highway authority may be either by way of grant or by way of loan, or partly in one way and partly in the other, and shall be upon such terms and subject to such conditions as the Board think fit.

(5) For the purposes of this Part of this Act the expression "improvement of roads" includes the widening of any road, the cutting off the corners of any road where land is required to be purchased for that purpose, the levelling of roads, the treatment of a road for mitigating the nuisance of dust, and the doing of any other work in respect of roads beyond ordinary repairs essential to placing a road in a proper state of repair; and the expression "roads" includes bridges, viaducts, and subways.

Provisions as
to roads con-
structed by
Road Board

9.—(1) Every road constructed by the Road Board under the provisions of this Part of this Act shall be a public highway, and the enactments relating to highways and bridges shall apply to such roads accordingly, except that every such road shall be maintainable by and at the cost of the Road Board, and, for the purpose of the maintenance, repair, improvement, and enlargement of or dealing with any such road, the Board shall have the same powers (except the power of levying a rate) and be subject to the same duties as a county council have and are subject to as respects main roads, and may further exercise any powers vested in a county council for the purposes of the maintenance and repair of bridges, and the Road Board shall have the same powers as a county council for the preventing and removing of obstructions :

Provided that—

- (a) Communications between a road or path and a road constructed by the Road Board shall be made in manner to be approved by the Road Board; and
- (b) The Road Board and any highway authority in whose district any part of any such road is situate may contract for the undertaking by such authority of the maintenance and repair of the part of such road in their district; and, for the purposes of such undertaking, the highway authority shall have the same powers and be subject to the same duties and liabilities as if the road were a road vested in the highway authority.

(2) Before the Treasury approve of the construction of a new road by the Road Board, they shall consult with the Local Government Board and shall satisfy themselves that notice of the intention to construct the road has been sent by the Road Board to every highway authority in the area of which any part of

the proposed road will be situate, and shall consider any objections to the proposed road which they may receive from any such authority. A.D. 1909.

10.—(1) Where the Road Board make an advance to a highway authority in respect of the construction of a new road, the Board may authorise the authority to construct the road, and where so authorised the highway authority shall have power to construct the road and to do all such acts as may be necessary for the purpose, and any expenses of the authority, so far as not defrayed out of the advance, shall be defrayed as expenses incurred by the authority in exercise of their powers as highway authority, and the enactments relating to such expenses, including the provisions as to borrowing, shall apply accordingly. Provisions as to construction of new roads by highway authorities.

(2) Where the highway authority to whom the advance is made are a county council, the new road, when constructed, shall be a main road and in any other case shall be a highway repairable by the inhabitants at large :

Provided that the maintenance of any such road within the administrative county of London shall devolve upon the local authority responsible for the maintenance of streets and roads in whose district the same is situate.

11.—(1) Where the Treasury have approved a proposal by the Road Board to construct a new road under this Part of this Act the Board may acquire land for the purpose, and may, in addition, acquire land on either side of the proposed road within two hundred and twenty yards from the middle of the proposed road. Acquisition of land.

(2) The Road Board may acquire, erect, and furnish such offices and other buildings as they may require, and may acquire land for the purpose.

(3) Where a highway authority are authorised to construct a new road under this Part of this Act, or an advance is made to such an authority in respect of the improvement of an existing road, the authority may acquire land for the purpose of such construction or improvement.

(4) For the purpose of the purchase of land by agreement under this Part of this Act by the Road Board or a highway authority the Lands Clauses Acts shall be incorporated with this Part of this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if the Road Board and the highway authority were referred to therein. 38 & 39 Vict. c. 55.

(5) Where the Road Board or any highway authority are unable to acquire by agreement on reasonable terms any land which they consider necessary, they may apply to the Development Commissioners for an order empowering them to acquire the land compulsorily in accordance with the provisions of the Schedule to this Act, and the Commissioners shall have power to

[CII. 47.] *Development and Road Improvement* [9 EDW. 7.]
Funds Act, 1909.

A.D. 1909. — make such an order: Provided that the provisions of Part I. of this Act, prohibiting the compulsory acquisition of the classes of land mentioned in subsection (3) of section five of this Act shall apply to the acquisition by the Road Board of land on either side of a road proposed to be constructed by the Board.

(6) The Road Board shall have full power, with the approval of the Treasury, to sell, lease, and manage any land acquired by them under this Part of this Act and not required for the new road, and any receipts derived from any such land, so far as they are applied for the purposes of the construction of new roads, shall not be treated as part of the expenditure of the Road Board on new roads for the purpose of the provisions of this Act limiting the amount of expenditure of the Road Board on new roads.

Expenses and receipts of Road Board.

12.—(1) All expenses of the Road Board under this Part of this Act, including the salary of the chairman or vice-chairman and the salaries and the remuneration of officers and servants, to such amount as may be sanctioned by the Treasury, shall be defrayed out of the road improvement grant.

(2) The Treasury shall cause an account to be prepared and transmitted to the Comptroller and Auditor-General for examination, showing the receipts into and issues out of the road improvement grant in the financial year ending the thirty-first day of March preceding, and the Comptroller and Auditor-General shall certify and report upon the same, and such account and report shall be laid before Parliament by the Treasury.

(3) Any sums received by the Road Board under this Part of this Act shall, subject to regulations made by the Treasury, be carried to the account to which the road improvement grant is required to be carried under the Act under which the grant is provided, and shall be treated as part of that grant.

Power to borrow.

13.—(1) The Road Board may, with the approval of and subject to regulations made by the Treasury, borrow on the security of the road improvement grant for the purpose of meeting any expenditure which appears to the Treasury to be of such a nature that it ought to be spread over a term of years, so however that the total amount required for the payment of interest on and the repayment of money so borrowed shall not exceed in any year the sum of two hundred thousand pounds.

(2) If and so far as the road improvement grant is insufficient to meet the amount required for the payment of interest on and the repayment of principal in any year, that amount shall be charged on and payable out of the Consolidated Fund or the growing produce thereof, but any sums so paid out of the Consolidated Fund shall be made good out of the road improvement grant.

Annual report to Parliament.

14. The Road Board shall make to the Treasury an annual report of their proceedings, and such report shall be laid annually before Parliament by the Treasury.

15. For the purposes of this Part of this Act the expression “highway authority” includes, as respects the administrative county of London, the London County Council. A.D. 1909.
Application to
London.

16. This Part of this Act shall apply to Scotland, subject to the following modifications :— Application to
Scotland.

The expression “highway authority” means a county council or a town council, and the expressions “road” and “main road” mean any road or street maintainable at the cost of a highway authority. References to a county council and to the powers and duties thereof shall as regards their respective areas be deemed to include references to a county road board and a district committee of a county council and to a town council and to their respective powers and duties. The reference to a highway maintainable by the inhabitants at large shall not apply :

The expression “Local Government Board” means the Secretary for Scotland.

17. This Part of this Act shall apply to Ireland, subject to the following modifications :— Application to
Ireland.

(1) The expression “highway authority” means the council of any county or county borough :

(2) The expression “Local Government Board” means the Local Government Board for Ireland :

(3) The reference to a road vested in a highway authority shall be construed as a reference to a road maintainable at the cost of the council of a county or county borough.

PART III.

GENERAL.

18. In approving, executing, or making advances in respect of the execution of any work under this Act involving the employment of labour on a considerable scale, regard shall be had so far as is reasonably practicable to the general state and prospects of employment Obligation to
consider the
state and pros-
pects of em-
ployment.

19.—(1) Where an order made by the Development Commissioners under Part I. or Part II. of this Act authorises the acquisition of any land forming part of any common, open space, or allotment, the order, so far as it relates to the acquisition of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the order provides for giving in exchange for such land other land, not being less in area, certified by the Board of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights, and to the public Provisions as
to commons
and open
spaces.

A.D. 1909. — Provided that—

29 & 30 Vict.
c. 122.
39 & 40 Vict.
c. 56.

- (a) This provision shall not apply to the acquisition of any common land for the purpose of forestry, if the order provides for the granting to the public of reasonable access to the land for air, exercise, or recreation unless the land has been dedicated to the public use and enjoyment or is a metropolitan common within the terms of the Metropolitan Commons Act, 1866, or is a suburban common as defined by the Commons Act, 1876, or is subject to a scheme of regulation made in pursuance of the Metropolitan Commons Acts, 1866 to 1898, or the Inclosure Acts, 1845 to 1899, or to a private or local Act of Parliament; and
- (b) This provision shall not apply to the acquisition of any common land for the purpose of the construction of a new road or the improvement of an existing road within a rural district; and
- (c) Nothing in this Act shall authorise the acquisition of land on either side of a new road to be constructed by the Road Board where the land forms part of a common, open space, or allotment.

(2) Before giving any such certificate of equality of exchange, the Board of Agriculture and Fisheries shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any order of the Development Commissioners authorises such an exchange, the order shall provide for vesting the land given in exchange in the persons in whom the common, open space, or allotment was vested, subject to the same rights, trusts, and incidents as attached to the common, open space, or allotment, and for discharging the part of the common, open space, or allotment acquired from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Act the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

Short title

20. This Act may be cited as the Development and Road Improvement Funds Act, 1909.

SCHEDULE.

A.D. 1909.

Sections 5 and
11.

(1) Where a Government Department, body, or persons to whom an advance is made under Part I. of this Act, or the Road Board or a highway authority (in this Schedule referred to as "the undertakers") propose to purchase land compulsorily under this Act, the undertakers may submit to the Development Commissioners a draft order putting in force, as respects the lands specified in the order, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) The order shall be in the prescribed form and shall contain such provisions as the Development Commissioners may prescribe for the purpose of carrying the order into effect, and shall incorporate the Lands Clauses Acts and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, or, in Scotland, sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, and those Acts shall apply accordingly, subject to the following modifications :—

- (A) Any question of disputed compensation shall be determined by a single arbitrator, who shall be appointed, and whose remuneration shall be fixed, as respects England, by the Lord Chief Justice of England, as respects Scotland by the Lord President of the Court of Session, and as respects Ireland by the Lord Chief Justice of Ireland and the arbitrator so appointed shall be deemed to be an arbitrator within the meaning of those Acts ;
- (B) An arbitrator so appointed may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow, as costs of the arbitration, the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers have been caused or incurred unnecessarily ;
- (C) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase being compulsory, and the arbitrator shall have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed work or road for which the land is authorised to be acquired by the undertakers ;
- (D) The provisions of the Lands Clauses Acts as to the sale of superfluous land shall not apply.

(3) The draft order shall be published by the undertakers in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners, lessees, and occupiers of that land as may be prescribed, and in the case of land forming part of a common, open space, or allotment, also to the Board of Agriculture and Fisheries.

(4) An order authorising the acquisition of any buildings may, if a portion only of those buildings are required for the purposes of the undertakers, notwithstanding anything in the Lands Clauses Acts, require the owners of and other persons interested in those buildings to sell and convey to the undertakers the portions only of the buildings so required, if the arbitrator is of opinion that such portions can be severed

A.D. 1909, from the remainder of the properties without material detriment thereto, and, in such case, the undertakers shall not be obliged to purchase the whole or any greater portion thereof, and shall pay for the portions acquired by them and make compensation for any damage sustained by the owners thereof or other parties interested therein by severance or otherwise.

(5) An order may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired.

(6) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

The provisions of this paragraph shall not apply to Scotland or Ireland.

(7) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the undertakers shall be deemed to be the promoters of the undertaking, and the expression "land" shall include easements, in or relating to land.

(8) In this Schedule the expression "prescribed" means prescribed by the Development Commissioners, and in Scotland the expression "easements" means servitudes.

Printed by EYRE and SPOTTISWOODE, LTD.,

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ROWLAND BAILEY, Esq., M.V.O., the King's Printer of Acts of Parliament

9780105160861