

ELIZABETH II



1981 CHAPTER vi

An Act to empower the Felixstowe Dock and Railway Company to construct works; to extend and alter the limits of the dock; to confer further powers on the Company; and for other purposes.

[26th February 1981]

WHEREAS the Felixstowe Dock and Railway Company (hereinafter referred to as "the Company") were incorporated by the Felixstowe Railway and Pier Act 1875 under the name of the Felixstowe Railway and Pier Company 1875 c. cxlv. and by that Act were authorised to construct a railway and pier:

And whereas by the Felixstowe Railway and Dock Act 1879 1879 c. clxxvii. the Company were authorised to construct a dock and railway:

And whereas by the Great Eastern and Felixstowe Railways Arrangement Act 1887 the railway and pier authorised by the said 1887 c. lxxvii. Act of 1875 were transferred to the Great Eastern Railway Company and the name of the Company was changed to that which they now bear:

And whereas the Company are now carrying on the dock and railway undertaking authorised by the said Act of 1879 and further powers were conferred on the Company in relation to that undertaking by the Felixstowe Dock and Railway Act 1923, the 1923 c. lxxx. Felixstowe Dock and Railway Act 1956, the Felixstowe Dock and 1956 c. lxxxviii. Railway Act 1963, the Felixstowe Dock and Railway Act 1968 and 1963 c. xxxvi. 1968 c. xix. the Felixstowe Dock and Railway Act 1979: 1979 c. xvi.

And whereas the existing railway facilities of the undertaking are inadequate to serve the increasing traffic passing through the dock and it is accordingly expedient to construct the works authorised by this Act:

And whereas it is expedient that the limits of the dock should be further extended and that the other powers contained in this Act should be conferred on the Company:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas a plan and sections showing the lines and levels of the works by this Act authorised and the lands which may be used for the purposes of those works, together with a book of reference to the said plan containing the names of the owners or reputed owners, lessees or reputed lessees and of the occupiers of all such lands and describing the same, have been deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the chief executive of the Suffolk County Council and such plan, sections and book of reference are respectively referred to in this Act as the deposited plan, the deposited sections and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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:—

Short and
collective
titles.

1.—(1) This Act may be cited as the Felixstowe Dock and Railway Act 1981.

(2) The Felixstowe Dock and Railway Acts 1879 to 1979 and this Act may be cited together as the Felixstowe Dock and Railway Acts 1879 to 1981.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

- | | |
|-------------------|--|
| 1845 c. 20. | “ the Act of 1845 ” means the Railways Clauses Consolidation Act 1845; |
| 1863 c. 92. | “ the Act of 1863 ” means the Railways Clauses Act 1863; |
| 1956 c. lxxxviii. | “ the Act of 1956 ” means the Felixstowe Dock and Railway Act 1956; |
| 1963 c. xxxvi. | “ the Act of 1963 ” means the Felixstowe Dock and Railway Act 1963; |
| 1968 c. xix. | “ the Act of 1968 ” means the Felixstowe Dock and Railway Act 1968; |

- “the Company” means the Felixstowe Dock and Railway Company;
- “enactment” means any provision of a public general Act, of a local private or personal Act, of a Provisional Order confirmed by an Act or of any regulation or order made under an Act;
- “the limits of deviation” means the limits of deviation shown on the deposited plan;
- “the works” means the work authorised by section 4 (Power to make works) of this Act and any works for or in connection with or subsidiary to that work; and includes the same as extended, enlarged, altered, replaced or relaid under subsection (2) of the said section 4.

(2) All distances and lengths stated in any description of works, powers or lands in this Act shall be construed as if the words “or thereabouts” were inserted after each such distance or length; and grid references in this Act refer to the map co-ordinates under grid letters TM on the grid of the national reference system used by the Ordnance Survey.

3. The following Act and Parts of an Act, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Act, are incorporated with and form part of this Act, and this Act shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

Incorporation
of general
Acts.

The Act of 1845, except sections 7, 8, 9, 11, 12, 13, 17, 19, 20, 22, 23 and 107 thereof, and Part I (relating to the construction of a railway), except sections 13 to 19, of the Act of 1863;

but as so incorporated—

(a) section 16 of the Act of 1845 shall extend to authorise the construction from time to time of sidings to serve the railway;

(b) sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Company and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of Part II of the Public Utilities Street Works Act 1950;

1950 c. 39.

(c) section 49 of the Act of 1845 shall have effect as if in the second and third heads of the regulations prescribed by that section for the words “sixteen feet”, “fifteen feet” and “fourteen feet” there were in each case substituted the words “sixteen feet six inches”; and

(d) the powers of section 86 of the Act of 1845 as to the use of the railway shall extend to sidings authorised by section 16 of that Act constructed from time to time to serve the railway and to the railway as extended, enlarged, altered, replaced or relaid under the powers of subsection (2) of section 4 (Power to make works) of this Act.

Power to
make works.

4.—(1) Subject to the provisions of this Act, the Company may, in the lines or situations and upon the lands delineated on the deposited plan and according to the levels shown on the deposited sections, make and maintain the work hereinafter described with all necessary works and conveniences connected therewith:—

A single track railway (2,591 metres in length) commencing by a junction with the Felixstowe branch line (British Railways Board, Eastern Region) from Westerfield Junction to Felixstowe at grid reference 28252/35965 and terminating by a junction with sidings of the Company at the port of Felixstowe at grid reference 27749/33842.

(2) Following construction of the single track railway authorised by subsection (1) above, the Company may upon so much of the land within the limits of deviation for that work as lies within 35 metres on either side of the rails of that railway, or between any fences constructed on either side of that railway, whichever is the less, make minor extensions, enlargements or alterations to, or may replace or relay, the said work.

Diversion and
stopping up of
footpaths.

5.—(1) The Company may divert the footpaths in the parish of Trimley St. Mary in the county of Suffolk between the points A and B and in the manner shown upon the deposited plan and may stop up and cause to be discontinued as a highway so much of the said footpaths as will be rendered unnecessary by the diversion of such footpath under the powers of this section.

(2) Notwithstanding anything in subsection (1) above, where a footpath is diverted, an existing footpath shall not be stopped up under the powers of this section until the new footpath to be substituted therefor is completed to the satisfaction of the highway authority concerned and is open for public use, or, in the case of difference between the Company and the highway authority, as to whether the new footpath is so completed, until the matter in dispute has been referred to and determined by arbitration.

(3) As from the date of completion to the satisfaction of the highway authority concerned of such diverted footpath, or as from the determination of any difference in that respect between

the Company and the highway authority (as the case may be), all rights of way over or along the portion of the footpath so stopped up shall be extinguished and the Company may appropriate and use the site and soil thereof so far as they are owners of the land on both sides thereof.

(4) Any footpath diverted under the powers of this section shall be repairable by the highway or other authority by whom it was maintainable before its diversion and be subject to the same public rights of way as were exercisable over the footpath before its diversion.

6. The following provisions of the Act of 1956, the Act of 1963 and the Act of 1968 shall, so far as they are applicable to the purposes and are not inconsistent with the provisions of this Act, be incorporated with and form part of this Act and shall extend and apply to and for the purposes of the said Act as if those provisions with any necessary modifications were re-enacted in this Act:—

Incorporation
of provisions
of Acts of
1956, 1963
and 1968
relating to
works.

The Act of 1956—

- Section 10 (Power to deviate);
- Section 11 (New works to form part of undertaking);
- Section 39 (Correction of errors in deposited plans and book of reference);
- Section 43 (Extinction of private rights of way):

The Act of 1963—

- Section 30 (For protection of East Suffolk and Norfolk River Board and Felixstowe Internal Drainage Board):

The Act of 1968—

- Section 10 (Temporary stoppage of highways);
- Section 40 (For protection of Eastern Electricity Board);

and in particular (but without prejudice to the generality of the foregoing provisions of this section) for the purposes of such extension and application—

- (a) references in the said provisions of the Act of 1956 to the new works shall be construed as references to the works and references in the said provisions of the Act of 1963 or the Act of 1968 to the works authorised by that Act or, as the case may be, the works within the meaning given by that Act shall be construed respectively

as references to the works authorised by section 4 (Power to make works) of this Act or the works (as defined in this Act);

- (b) references in the said provisions of the Act of 1956 to the deposited plans, the deposited sections, the deposited book of reference or the limits of deviation (as defined in the Act of 1956) shall be construed as references to the deposited plan, the deposited sections, the deposited book of reference and the limits of deviation (as defined in this Act);
- (c) subsection (3) of the said section 39 of the Act of 1956 shall have effect as if for the words from the beginning to “and a copy” there were substituted “Any such certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons and with the chief executive of the Suffolk County Council”;
- (d) the said section 43 of the Act of 1956 shall have effect as if—
- (i) in subsection (1) for the words “compulsorily under” there were substituted the words “for the purposes of” and the words “whether compulsorily or by agreement” were omitted;
 - (ii) after subsection (1) there were inserted—

“(1A) All private rights of way over any land of which the Company may take temporary possession under this Act shall be suspended and unenforceable against the Company for so long as the Company shall remain in lawful possession thereof.”;
 - (iii) in subsection (2) for the reference to the Lands Clauses Acts there were substituted a reference to the Land Compensation Act 1961;
- (e) the said section 30 of the Act of 1963 shall have effect as if—
- (i) in sub-paragraph (i) of paragraph (1) thereof the expression “the works” meant the works (as defined in this Act);
 - (ii) in sub-paragraph (ii) of the said paragraph (1) the expression “existing works” meant the works authorised by the Felixstowe Dock and Railway Acts 1879 to 1979 as constructed; and
 - (iii) for references to the East Suffolk and Norfolk River Board there were substituted references to the Anglian Water Authority;

(f) the said section 10 of the Act of 1968 shall have effect as if in subsection (4) for reference to the mayor, aldermen and burgesses of the county borough of Ipswich there were substituted reference to the Anglian Water Authority; and as if in subsection (6) for reference to the urban district of Felixstowe there were substituted reference to the Suffolk Coastal District;

(g) the said section 40 of the Act of 1968 shall have effect as if—

(i) in subsection (1), in the definition of “ specified work ”, for the reference to section 8 (Power to make works) and section 9 (Subsidiary works) of that Act there were substituted reference to section 4 (Power to make works) and section 5 (Diversion and stopping up of footpaths) of this Act;

(ii) in subsection (3), after the words “ If the Company in ” there were inserted the words “, or for the purpose of, ” and after the word “ Act ” there were inserted the words “ appropriate, use or ”.

7. Section 4 (Interpretation) of the Act of 1956 is hereby amended by substituting, in the definition of “ the railway ”, for the words “ the Felixstowe Dock and Railway Acts 1879 to 1923 ” the words “ the Felixstowe Dock and Railway Acts 1879 to 1981 ”. Amendment of section 4 of Act of 1956.

8.—(1) As from the passing of this Act the limits of the dock shall be the area described in the Schedule to this Act and notwithstanding anything contained in the Felixstowe Dock and Railway Acts 1879 to 1979 references in enactments relating to the undertaking to the limits of the dock shall be construed as references to the limits so described. Limits of dock and repeal.

(2) Section 22 (Limits of dock) and Schedule 1 to the Felixstowe Dock and Railway Act 1979 are hereby repealed.

1979 c. xvi.

9. For the protection of the British Railways Board (in this section referred to as “ the board ”) the following provisions shall unless otherwise agreed in writing between the Company and the board apply and have effect:— For protection of British Railways Board.

(1) In this section—

“ construction ” includes execution, placing and altering and “ construct ” and “ constructed ” have corresponding meanings;

“ the engineer ” means an engineer to be appointed by the board;

“ plans ” includes sections, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction);

“ railway property ” means any railway of the board and any works connected therewith for the maintenance or operation of which the board are responsible and includes any lands held or used by the board for the purposes of such railway or works;

“ specified works ” means so much of the works (whether temporary or permanent) authorised by this Act as may be situated upon, across, under, over or within 15 metres of, or may in any way affect, railway property and includes the maintenance and renewal of such works.

- (2) The exercise of the powers of the Act of 1845 with respect to the temporary occupation of land as applied by section 3 (Incorporation of general Acts) of, and incorporated with, this Act shall not prevent the exercise by the board of such rights as the board may have of access (with or without vehicles, machinery and materials) for the board and their agents and employees over any such land to and from railway property.
- (3) The Company shall during construction of the specified works fence them off from railway property to the satisfaction of the engineer where reasonably required by him.
- (4) The Company shall before commencing the specified works (other than works of maintenance or repair) furnish to the board proper and sufficient plans thereof for the reasonable approval of the engineer and shall not commence the specified works until plans thereof have been approved in writing by the engineer or settled by arbitration:

Provided that if within 28 days after such plans have been furnished to the board the engineer shall not have intimated his disapproval thereof and the grounds of his disapproval he shall be deemed to have approved the same.

- (5) If within 28 days after such plans have been furnished to the board the board shall give notice to the Company that the board desire themselves to construct any part of the specified works which in the opinion of the engineer will or may affect the operation of the board's railway or the stability of railway property then, if the Company desire such part of the specified works to be constructed, the board shall construct the same with all

reasonable dispatch on behalf of and to the reasonable satisfaction of the Company in accordance with the plans approved or deemed to be approved or settled as aforesaid.

- (6) Upon signifying his approval or disapproval of the plans the engineer may specify any protective works whether temporary or permanent which in his opinion should be carried out before the commencement of the specified works to ensure the safety or stability of railway property and such protective works as may be reasonably necessary for those purposes shall be constructed by the board, or by the Company if the board so desire, with all reasonable dispatch; and the Company shall not commence the construction of the specified works until the engineer shall have notified the Company that the protective works have been completed to his reasonable satisfaction.
- (7) The Company shall give to the engineer two months' notice in writing of their intention to commence the construction of any of the specified works and except in emergency (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the specified works.
- (8) The specified works shall when commenced be carried out with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled as aforesaid and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to railway property and as little interference with or obstruction to the free, uninterrupted and safe user of the board's railway and the traffic thereon as reasonably may be; and if by virtue of the carrying out of the specified works damage, interference or obstruction shall be caused or take place outwith the foregoing provisions of this paragraph, the Company shall notwithstanding any such approval as aforesaid make good such excessive damage and shall on demand pay to the board all reasonable expenses to which they may be put and compensation for any loss which they may sustain by reason of any such excessive damage, interference or obstruction, as the case may be.
- (9) The Company shall at all times afford reasonable facilities to the engineer for access to the specified works during their construction and shall ensure access for the engineer at all reasonable times to all working sites, depots and

works at which materials to be employed in the construction of the specified works are being made, constructed or assembled and shall supply him with all such information as he may reasonably require with regard to the specified works or the method of construction thereof.

- (10) The board shall at all times afford reasonable facilities to the Company and their agents for access to any works carried out by the board under this section during their construction and shall supply the Company with such information as they may reasonably require with regard to such works or the method of construction thereof.
- (11) The Company shall repay to the board all costs, charges and expenses reasonably incurred by the board—
 - (a) in constructing any part of the specified works on behalf of the Company as provided by paragraph (5) of this section or in constructing any protective works under the provisions of paragraph (6) of this section;
 - (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, watching, lighting and signalling railway property.
- (12) If at any time after the completion of the specified works, not being works vested in the board, the board shall give notice to the Company informing them that the state of repair of the specified works appears to be such as to affect prejudicially railway property, the Company shall, on receipt of such notice, take such steps as may be necessary to put the specified works in such state of repair as not to affect prejudicially railway property; and, if and whenever the Company fail to do so, and at any time in cases of emergency (without being required to give notice as aforesaid) the board may make and do in and upon the lands of the board or of the Company all such works and things as shall be requisite to put the specified works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the board in so doing shall be repaid to them by the Company.
- (13) All temporary structures, erections, works, apparatus and appliances erected or placed by the Company under the powers of this Act, upon, over or under any railway of the board shall upon completion of the specified works as soon as reasonably practicable be removed by the Company.

(14) The Company shall be responsible for and make good to the board all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to or reasonably incurred by the board—

(a) by reason of the failure of the specified works;

or

(b) by reason of any act or omission of the Company or of any persons in their employ or of their contractors or others whilst engaged upon the specified works;

and the Company shall effectively indemnify and hold harmless the board from and against all claims and demands arising out of or in connection with the failure of the specified works or any act or omission as aforesaid and the fact that any act or thing may have been done by the board on behalf of the Company or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or agents) excuse the Company from any liability under the provisions of this section:

Provided that the board shall give to the Company reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Company.

(15) Any difference arising between the Company and the board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration.

10.—(1) In their application to development authorised by this Act, Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

Modification
of Town and
Country
Planning Act
1971.

(2) Nothing in subsection (1) above shall affect the carrying out of any development which consists of any minor extension, enlargement or alteration of, or the replacement or relaying of, the works authorised by subsection (2) of section 4 (Power to make works) of this Act.

1971 c. 78.

(3) Notwithstanding anything in sections 222 and 223 of the Town and Country Planning Act 1971, no land within the limit of deviation and land to be acquired delineated on the deposited plan shall by virtue of this Act become treated as operational land for the purposes of the said Act of 1971 until after the single track railway authorised by subsection (1) of section 4 (Power to make works) of this Act has been constructed and opened for traffic, and then—

- (a) subject to paragraph (b) below, the operational land shall extend to so much only of the land within that limit as lies within 35 metres on either side of the rails of that railway or between any fences constructed on either side of that railway, whichever is the less;
- (b) in connection with permitted development by the construction of sidings to serve the single track railway, the operational land shall extend to so much only of that land as lies south of an imaginary line drawn east and west through grid reference 27900/35200.

(4) In this section expressions to which meanings are assigned by the Town and Country Planning Act 1971 shall have the same respective meanings and, in subsection (3) (b) above, “permitted development” means development for which planning permission is granted by a development order granting planning permission generally for development by statutory undertakers.

Arbitration.

11. Where under this Act any difference is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Costs of Act.

12. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Company and may in whole or in part be defrayed out of revenue.

SCHEDULE

LIMITS OF THE DOCK

Section 8.

First, an area bounded by an imaginary line commencing at a point at 28239/31915 thence in a northerly direction along the level of mean low-water springs to a point at 28260/32015 thence along the fence marking the north and north-east boundaries of Landguard Fort to a point at 28423/31967 thence in a straight line in a north-north-easterly direction to a point at 28433/31983 thence in a straight line in a north-easterly direction to a point at 28564/32083 thence in a straight line in an east-north-easterly direction to a point at 28668/32104 thence in a straight line in a north-north-easterly direction to a point at 28703/32217 thence in a north-easterly direction following the line of Landguard Road to a point at 28759/32324 thence in a straight line in a north-north-easterly direction to a point at 28868/32735 thence in a straight line in a north-easterly direction to a point at 28910/32814 thence in a straight line in a northerly direction to a point at 28910/32945 thence in a straight line in a north-easterly direction to a point at 28963/32970 thence following the curve of Carr Road to a point at 28844/32942 thence in a straight line in an easterly direction to a point at 28900/32943 thence in a straight line in a southerly direction to a point at 28900/32824 thence in a straight line in a west-south-westerly direction to a point at 28662/32734 thence in a straight line in a north-westerly direction to a point at 28590/32810 thence in a straight line in a west-north-westerly direction to a point at 28576/32831 thence in a northerly direction to the northside boundary of Carr Road to a point east of the railway crossing at 28601/32915 thence in a westerly direction along the northern boundary of the said Carr Road to a point at 28476/33000 thence in a northerly direction across the railway line to a point on the northern boundary fence of that railway at 28473/33023 thence in an easterly and thereafter a north-north-easterly direction along the northern and north-western boundary fence of that railway to a point at 29084/33355 thence in a north-westerly direction along the centre line of a drain to a point at 29050/33385 thence in a south-westerly direction along the centre line of a drain and thence along the foot of the bank marking the boundary of the outfall works of the Suffolk Coastal District Council to a point at 28731/33145 thence in a north-easterly direction along the foot of the said bank and thereafter in a similar direction along the said boundary to a point at 28935/33391 thence in an east-south-easterly direction along the centre line of a drain to a point at 29020/33371 thence in a north-easterly direction along the western boundary of the Suffolk Coastal District Council's road affording access to their outfall works to a point on the southern boundary of Walton Avenue at 29127/33557 thence in a north-westerly direction along the southern boundary of Walton Avenue to a point on that boundary at 28125/34060 thence in a south-south-westerly direction along the centre line of the dyke to a point at 28009/33828 thence in a north-westerly direction along the centre line of the dyke to a point at 27660/34210 thence continuing along the centre line of the dyke in a northerly direction to a point at 27652/34295 thence continuing along the centre line of the dyke in an east-north-easterly direction to a point at 27682/34310 thence in a north-westerly direction

SCH.
—cont.

along the centre line of the drain to its termination at 27424/34570 thence in a straight line in a west-north-westerly direction to the point where the footpath along the top of the sea wall joins the roadway or track at 27376/34581 thence in a west-south-westerly direction along the south-eastern boundary of a road or track to a point at 27300/34526 thence continuing in a south-westerly direction to the nearest point on the boundary between the limits of jurisdiction of the Ipswich Port Authority and the Harwich Harbour Conservancy Board at the level of high water at or about 2710/3444, thence continuing in a south-westerly direction along the line of that boundary to a point at or about 2623/3411 thence in a south-easterly direction to a point at 26940/33700 thence continuing in a south-easterly direction to a point at 27330/33410 thence continuing in a south-easterly direction to a point at 27920/32820 thence in a south-south-easterly direction to a point at 28080/32460 thence in a southerly direction to a point at 28120/31910 thence in an easterly direction to and terminating at the point of commencement;

And secondly, from and after the construction and opening for traffic of the railway work authorised by section 4 (Power to make works) of this Act, so much of the land within the limit of deviation and land to be acquired delineated on the deposited plan as lies within 35 metres on either side of the rails of that railway or between any fences constructed on either side of that railway, whichever is the less.

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CHAPTER vi

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SCHEDULE—Limits of the dock.