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STATUTORY INSTRUMENTS

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**2008 No. 2512**

The Felixstowe Branch Line and  
Ipswich Yard Improvement Order 2008

PART 1

PRELIMINARY

**Citation and commencement**

1. This Order may be cited as the Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 and shall come into force on 14th October 2008.

**Interpretation**

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 1990 Act” means the Town and Country Planning Act 1990(3);

“the 1991 Act” means the New Roads and Street Works Act 1991(4);

“the 1993 Act” means the Railways Act 1993(5);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised works” means the scheduled works and any other works authorised by this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“carriageway”, “footway”, “highway” and “highway authority” have the same meaning as in the Highways Act 1980(6);

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“limits of deviation” means the limits of deviation for the scheduled works shown on the works and land plans;

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(1) 1961 c. 33.  
(2) 1965 c. 56.  
(3) 1990 c. 8.  
(4) 1991 c. 22. As amended by the Traffic Management Act 2004 c. 18.  
(5) 1993 c. 43.  
(6) 1980 c. 66.

“limits of land to be acquired or used” means the limits of land to be acquired or used shown on the works and land plans;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” shall be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition, “associated company” means any company which is (within the meaning of section 736 of the Companies Act 1985<sup>(7)</sup>), the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or other subsidiary of the holding company of Network Rail Infrastructure Limited;

“operator” means an operator within the meaning of section 6(2) of the 1993 Act;

“the Order limits” means any limits of deviation and any limits of land to be acquired or used which are shown on the works and land plans;

“owner”, in relation to land, has the same meaning as in the Acquisition of Land Act 1981<sup>(8)</sup>;

“the railway” means any railway authorised to be constructed by this Order and any other authorised works, except where the context otherwise requires;

“the rights of way plans” means the plans certified by the Secretary of State as the rights of way plans prepared for the purposes of this Order;

“the scheduled works” means the works specified in Schedule 1 or any part of them;

“the sections” means the sections shown on the works and land plans and certified by the Secretary of State as the sections for the purposes of this Order;

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Lands Tribunal;

“the undertaker” means The Felixstowe Dock and Railway Company being a company limited by shares and incorporated by the Felixstowe Railway and Pier Act 1875<sup>(9)</sup> whose registered number is 02590042;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“works and land plans” means the plans certified by the Secretary of State as the works and land plans for the purposes of this Order, and references to land shown on these plans are references to land so shown in pursuance of rule 12(5) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space over its surface.

(3) All distances, directions and lengths stated in the description of the scheduled works or in any description of powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, direction and length, and distances between points on a scheduled work shall be taken to be measured along the scheduled work.

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(7) 1985 c. 6.

(8) 1981 c. 67.

(9) 1875 c. cxlv.

### **Incorporation of Railways Clauses Acts**

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845<sup>(10)</sup> shall be incorporated in this Order—

- section 46 (crossing of roads—level crossings), subject to paragraph (4);
- section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
- section 61 (company to make sufficient approaches and fences to highways crossing on the level);
- section 68 (accommodation works by company);
- section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
- sections 72 and 73 (supplementary provisions relating to accommodation works);
- section 75 (omission to fasten gates);
- section 77 (presumption that minerals excepted from acquisition of land);
- sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923<sup>(11)</sup>;
- sections 103 and 104 (refusal to quit carriage at destination);
- section 105 (carriage of dangerous goods on railway);
- section 145 (recovery of penalties); and
- section 154 (transient offenders).

(2) The following provisions of the Railways Clauses Act 1863<sup>(12)</sup> shall be incorporated in this Order—

- sections 5 and 7 (level crossings); and
- section 12 (signals, watchmen etc.).

(3) In those provisions, as incorporated in this Order—

- “the company” means the undertaker;
- “goods” includes any thing conveyed on the railway authorised to be constructed by this Order;
- “lease” includes an agreement for a lease;
- “prescribed”, in relation to any such provision means prescribed by this Order for the purposes of that provision;
- “the railway” means the railway as defined in article 2(1);
- “the special Act” means this Order;
- “toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

(4) In section 46 of the said Act of 1845, as incorporated in this Order, for the proviso there shall be substituted the words “Provided always that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level.”.

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<sup>(10)</sup> 1845 c. 20.  
<sup>(11)</sup> 1923 c. 20.  
<sup>(12)</sup> 1863 c. 92.

### **Application of the 1991 Act**

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) which, together with other provisions of that Act, apply in relation to the execution of street works and any regulations made or code of practice issued or approved under those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by this Order whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act referred to in paragraph (2) are—

- section 54 (advance notice of certain works), subject to paragraph (4);
- section 55 (notice of starting date of works), subject to paragraph (4);
- section 57 (notice of emergency works);
- section 59 (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route); and

all such other provisions as apply for the purposes of the provisions mentioned above.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(5) Nothing in article 13 (construction and maintenance of new or altered streets) shall—

- (a) prejudice the operation of section 87 of the 1991 Act (prospectively maintainable highways); and the undertaker shall not by reason of any duty under that article to maintain a street be taken to be a street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to street works with regard to which the provisions of Part 3 of the 1991 Act apply.