

THE TRANSPORT AND WORKS ACT 1992

**THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2000**

THE FELIXSTOWE BRANCH LINE AND IPSWICH YARD IMPROVEMENT ORDER

EXPLANATORY MEMORANDUM

RULE 10(2)(b)

The Order would authorise The Felixstowe Dock and Railway Company ("the Applicant") to construct an improved marshalling yard near Ipswich Station, works to improve Westerfield level crossing in Suffolk Coastal District and in the Borough of Ipswich, and works to dual the Felixstowe branch railway line, and for that purpose compulsorily, or by agreement, to acquire land or rights in land.

PART I

PRELIMINARY

Part I of the Order contains preliminary provisions.

Article 1 provides for the commencement and citation of the Order and *Article 2* for its interpretation.

Article 3 provides for the incorporation of the Railways Clauses Consolidation Act 1845 and the Railways Clauses Act 1863.

Article 4 provides for the application of the New Roads and Street Works Act 1991.

PART II

WORKS PROVISIONS

Part II of the Order contains provisions for and relating to the carrying out of works.

Article 5 authorises the construction and maintenance of the principal works proposed (the "scheduled works"), which are described in *Schedule 1* to the draft Order and shown on the plans and sections

that are deposited in connection with the application. It also provides for the construction and maintenance of ancillary works, which, together with the scheduled works comprise the "authorised works". *Schedule 1* describes the scheduled works for the purposes of the construction of a railway comprising a new marshalling yard near Ipswich Station, the proposed modification and reconfiguration of Westerfield level crossing and works to dual part of the existing Felixstowe branch railway line, together with works to modify existing level crossings along the branch line including those at Morston Hall Road and Thorpe Lane and the realignment of Grimston Lane at its junction with Thorpe Lane.

Article 6 provides for limits within which the Applicant can deviate in the construction of the proposed works.

Article 7 confers a general power on the Applicant to carry out works to streets including those listed in *Schedule 3* to the draft Order and to interfere with them and permits the Applicant to place equipment and apparatus in streets for the purpose of or in connection with the scheduled works.

Article 8 provides for the permanent stopping up of certain streets for which more specific details are given in *Schedule 4* to the draft Order.

Article 9 provides for the temporary stopping up of streets subject to the consent of the street authority concerned (which may not be unreasonably withheld) or, in the case of the temporary stoppages of those streets specified in *Schedule 5* to the draft Order, after consulting the street authority.

Article 10 confers powers for the provision or improvement of accesses.

Article 11 makes provision for new streets and street alterations or diversions to be completed to the reasonable satisfaction of the highway authority (or the street authority in the case of alterations or diversions) and for their maintenance, after a 12 month period, by and at the expense of that authority.

Article 12 provides that the plans and specifications of any bridge constructed under this Order shall be subject to the approval of the highway authority (which shall not be unreasonably withheld).

Article 13 authorises the conclusion of agreements between street authorities and the Applicant relating to works in or affecting streets.

Article 14 provides for new level crossings to be substituted for certain existing level crossings specified in *Schedule 8* and the repeal of existing Orders in relation to those level crossings and authorises the conclusion of agreements between highway authorities and the Applicant relating to level crossings.

Article 15 provides for certain level crossings specified in *Schedule 8* to be stopped up and that the rights of way that relate to those crossings be extinguished.

Article 16 permits the Applicant in connection with the construction and maintenance of the proposed works to discharge water into any watercourse, public sewer or drain.

Article 17 enables the Applicant from time to time at its own expense to carry out such protective works to any building lying within the limits of deviation prescribed by *Article 6* as the Applicant considers to be necessary or expedient.

Article 18 confers upon the Applicant a power to survey and/or investigate land. The power includes an ability to make trial holes, to use and leave apparatus on the land in question and to enter on land. This article also makes provision in relation to the payment of compensation.

PART III

ACQUISITION AND POSSESSION OF LAND

Part III of the draft Order contains provisions for the compulsory acquisition of land and rights in land and for the temporary possession of land for the purposes of or in connection with the intended works and the Applicant's undertaking.

Article 19 authorises the compulsory acquisition of the land shown on the plans and described in the book of reference deposited in connection with the application so far as required for the purposes of the intended works or, in the case of the land specified in *Schedule 2* to the draft Order, for the particular purposes specified in that Schedule.

Article 20 provides for the application with modifications of Part I of the Compulsory Purchase Act 1965.

Article 21 provides for the application of the Compulsory Purchase (Vesting Declarations) Act 1981 which contains vesting procedures for land subject to compulsory purchase.

Article 22 allows the Applicant to acquire easements and other rights over land rather than the whole interest in any land. To give effect to this, amendments to legislation relating to compulsory purchase are set out in *Schedule 7* to the Order.

Article 23 confers upon the Applicant rights in the surface, subsoil of and air-space over streets without the necessity of acquisition subject to certain provisions for compensation.

Article 24 provides that the Applicant may take temporary possession for the construction of the scheduled works of the land specified in *Schedule 9* to the Order and of the land lying within the limits of deviation and the limits of additional land to be acquired or used shown on the plans deposited in connection with the application.

Article 25 provides for the Applicant to take temporary possession of certain land for the maintenance of the works authorised by the draft Order.

Article 26 provides for disregarding certain interests in and enhancements to the value of land for the purposes of assessing compensation where the creation of the interest or the making of the enhancement was undertaken with the intention of obtaining compensation or increased compensation.

Article 27 provides for set off against any increase in contiguous or adjacent land retained for the purpose of assessing compensation where any increase shall accrue as a result of the construction of the scheduled works.

Article 28 enables the Applicant to acquire a part rather than the whole of properties subject to compulsory acquisition and contains a procedure enabling the relevant owner in certain circumstances to require the whole to be taken, with disputes being determined by the Lands Tribunal. This provision would be substituted for section 8(1) of the Compulsory Purchase Act 1965.

Article 29 provides for the extinction or suspension of private rights of way over land subject to compulsory acquisition or appropriation for the purposes of the Order. Provision for the payment of compensation is included.

Article 30 imposes a time limit of five years from the Order coming into force for the exercise of the proposed powers of acquisition and possession.

PART IV

MISCELLANEOUS AND GENERAL

Part IV contains a number of miscellaneous and general provisions.

Article 31 modifies planning legislation as respects the application of Tree Preservation Orders and the treatment of land as operational land.

Article 32 enables the Applicant to fell or lop trees and shrubs for the purposes of preventing obstruction or interference with the authorised railway and danger to passengers and users. Provision is included for the payment of compensation for loss and damage.

Article 33 confers powers on a railway undertaker to operate and use the railway and scheduled works.

Article 34 confers powers for the transfer and lease of the scheduled works.

Article 35 confers powers on a railway undertaker to charge fares and make charges.

Article 36 provides that when approval has been granted to any work, plant or equipment pursuant to regulations made under section 41 of the Transport and Works Act 1992, it shall not be used except in the state or condition in which it was in at the time of approval if this materially impairs safe operation of the authorised transit system. Contravention is made a criminal offence.

Article 37 confers powers to the Applicant to enter into agreements with Network Rail as to the construction, maintenance and operation of the scheduled works subject to the consent of the Secretary of State.

Article 38 provides that it is a defence to proceedings in respect of statutory nuisance under section 82(1) of the Environmental Protection Act 1990 for the defendant to show that works are being carried out in accordance with a notice served under section 60, or a consent given under section 61 or 65, of the Control of Pollution Act 1974, or that the nuisance complained of is a consequence of the operation of the works authorised by the Order and that it cannot reasonably be avoided.

Article 39 amends sections 60 and 61 of the Control of Pollution Act 1974 insofar as they relate to the construction of the authorised works.

Article 40 makes provision for the application of the law in relation to landlords and tenants if leases are granted in respect of the scheduled works.

Article 41 makes it a criminal offence to obstruct the works authorised by the Order.

Article 42 makes it a criminal offence to trespass in relation to the proposed works and the land of the Applicant.

Article 43 makes disclosure of certain confidential information obtained upon entry to certain premises under *Article 18* (Power to survey and investigate land) a criminal offence.

Article 44 introduces *Schedule 10* to the Order which contains specific safeguards for certain statutory undertakers.

Article 45 introduces *Schedule 11* to the Order , which it is proposed will contain specific safeguards for the protection of certain persons.

Article 46 makes provision for the application of certain railway enactments.

Article 47 requires the Applicant to submit copies of the book of reference, plans and sections referred to in the Order to the Secretary of State for certification as true copies following the making of the Order.

Article 48 makes provision as to the manner in which notices or other documents required or authorised to be served for the purposes of the Order are to be served.

Article 49 makes provision to ensure that any compensation is not payable more than once.

Article 50 makes provision for differences arising under any provision of the Order other than those referred to in the Lands Tribunal, and unless otherwise agreed between the parties, to be settled by arbitration.