ELIZABETH II



1979 CHAPTER xvi

An Act to empower the Felixstowe Dock and Railway Company to construct works; to authorise the raising of additional capital and to provide for the capitalising of reserves and other funds; to extend and alter the limits of the dock; to confer further powers on the Company, and for other purposes. [6th December 1979]

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 and by that Act were authorised to construct a railway and pier: 1875 c. cxlv.

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

And whereas by the Great Eastern and Felixstowe Railways Arrangement Act 1887 the railway and pier authorised by the said 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: 1887 c. lxvii.

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 Felixstowe Dock and Railway Act 1956, the Felixstowe Dock and Railway Act 1963 and the Felixstowe Dock and Railway Act 1968:

1923 c. lxxx.
1956 c. lxxxviii.
1963 c. xxxvi.
1968 c. xix.

And whereas the period for construction of the works authorised by the said Act of 1968 has expired and it is expedient that in substitution for so much of Work No. 4 specified by that Act as has not been completed the Company should be authorised to construct the works specified by this Act:

And whereas it is expedient to authorise the Company to raise additional share and loan capital for the carrying out of those works and for the future development of the undertaking:

And whereas it is expedient 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 plans 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 plans 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 plans, sections and book of reference are respectively referred to in this Act as the deposited plans, 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:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Felixstowe Dock and Railway Act 1979.

(2) The Felixstowe Dock and Railway Acts 1879 to 1968 and this Act may be cited together as the Felixstowe Dock and Railway Acts 1879 to 1979.

PART I —*cont.*

Incorporation of Acts.

2.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with the provisions of this Act are hereby incorporated with this Act, namely:—

(*a*) the Act of 1845 (except sections 85 to 87 and the provisions thereof with respect to the conversion of borrowed money into capital); and for the purpose of such incorporation—

(i) section 11 of that Act shall have effect as if the words " Except as otherwise provided by the conditions of issue thereof " were inserted at the beginning of that section; and

(ii) section 15 of that Act shall have effect as if for the words " on demand " there were substituted " within two months after delivery thereof ";

(*b*) the Companies Clauses Act 1863 (except the provisions thereof which limit the rate of dividend on preference capital, sections 17 to 21, and Part IV thereof); and for the purpose of such incorporation— 1863 c. 118.

(i) section 14 of that Act shall have effect as if the words " out of the profits of each year " and the words from " but if in any year " to the end of the section were omitted;

(ii) section 22 of that Act shall have effect as if the words " and to the same amount as " were omitted;

(iii) section 25 of that Act shall have effect as if the words " or the sum of ten thousand pounds, whichever of the two last-mentioned sums is the smaller sum " were omitted; and

(iv) section 31 of that Act shall have effect as if after the words " other than " there were inserted " in the case of holders of perpetual debenture stock ";

(*c*) the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof; and for the purpose of such incorporation— 1845 c. 20.

(i) the works authorised by this Act shall be deemed to be the railway;

(ii) the centre lines of those works as shown on the deposited plans shall be deemed to be the centre of the railway; and

(iii) the centre line of Work No. 1 shall be deemed to be the line A–B shown on the deposited plans for the longitudinal section of the quay or quays forming part of that work;

PART I —*cont.*

1847 c. 27.

(*d*) the provisions of the Harbours, Docks and Piers Clauses Act 1847 (except sections 6 to 13, 16 to 19, 23, 25 to 27, 31, 32, 49, 50, 84 to 90, 95, 97, 98 and 101); and for the purpose of such incorporation—

(i) that Act shall be read and have effect as if the word "vessel" as defined in the Act of 1963 were substituted for the meaning given to that word by section 3 of the said Act of 1847;

(ii) nothing in that Act shall require or authorise the dock master to require the dismantling of a seaplane or any part thereof or the making of any alteration whatever of the structure or equipment of a seaplane;

(iii) section 15 of that Act shall have effect as if for the words from "shall forfeit" to the end of the section there were substituted "without reasonable excuse shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50";

(iv) section 20 of that Act shall have effect as if the words "in addition to the lands authorised to be compulsorily taken by them under the powers of the special Act" were deleted and after the word "purchase" there were inserted "or lease";

(v) section 63 of that Act shall have effect as if for the words from "penalty" to the end of the section there were substituted "not exceeding £50"; and

(vi) section 74 of that Act shall have effect as if the proviso were deleted.

(2) In the construction of the enactments so incorporated with this Act the expression "special Act" shall be read as a reference to this Act and the expression "company" shall mean the Company.

Interpretation.

3.—(1) In this Act the following words and expressions have the several meanings hereby assigned to them respectively unless there be something in the subject or context repugnant to such construction, that is to say:—

"the Act of 1845" means the Companies Clauses Consolidation Act 1845;

1845 c. 16.

"the Act of 1956" means the Felixstowe Dock and Railway Act 1956;

1956 c. lxxxviii.

"the Act of 1963" means the Felixstowe Dock and Railway Act 1963;

1963 c. xxxvi.

"the Act of 1968" means the Felixstowe Dock and Railway Act 1968;

1968 c. xix.

PART I —*cont.*

" the Company " means the Felixstowe Dock and Railway Company;

" the directors " means the directors for the time being of the 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 level of high water " means the level of mean high-water springs;

" the limits of deviation " means the limits of deviation shown on the deposited plans;

" share " means share in the share capital of the Company and includes stock except where a distinction between stock and shares is express or implied and " share capital " and " shareholder " shall be construed accordingly;

" tidal work " means so much of any work authorised by this Act (including any work executed for the purposes of, in connection with or subsidiary to a work so authorised) as is on, under or over tidal waters or tidal lands below the level of high water;

" the undertaking " means the undertaking of the Company as for the time being existing;

" the works " means the works authorised by section 4 (Power to make works) of this Act and any works constructed under section 9 (Subsidiary works) of the Act of 1968 as applied by section 5 (Incorporation of provisions of Acts of 1956, 1963 and 1968 relating to works) of this Act, for or in connection with or subsidiary to any of those works; and includes those works as extended, enlarged, altered, replaced or relaid under subsection (2) of the said section 4; and " work " shall be construed accordingly.

(2) All areas, 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 area, distance or length.

(3) Unless the context otherwise requires, any reference in this Act to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

PART II

WORKS

Power to make works.

4.—(1) The Company may make and maintain in the lines and situations and upon the lands delineated on the deposited plans and described in the deposited book of reference and according to the levels shown on the deposited sections the following works, namely:—

Work No. 1 A quay or quays, including berths for vessels, enclosing with Work No. 2 an area of 61 hectares extending into the estuary of the river Orwell from the north-east bank of the estuary, and being an extension in a north-westerly direction of so much of Work No. 4 authorised by the Act of 1968 as was constructed; commencing by a junction with the south-westerly extremity of the quay forming that work (so far as constructed), and terminating at a point 1,060 metres measured in a north-westerly direction from the point of commencement.

Work No. 2 A retaining wall or revetment commencing by a junction with the point of termination of Work No. 1 and terminating at a point on the existing sea wall 880 metres measured in an east-north-easterly direction from the point of commencement.

(2) The Company may within the limits of deviation for the said works extend, enlarge, alter, replace or relay the same.

(3) The Company may fill in and reclaim from the foreshore and bed of the sea and may hold and use as part of the undertaking so much of the foreshore and bed of the sea as is situate within the limits of deviation and is landward of the quay or quays forming part of Works Nos. 1 and 2.

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

5. 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 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:—

The Act of 1956—

Section 10 (Power to deviate);

Section 11 (New works to form part of undertaking);

Section 19 (Power to dredge);

Section 21 (Company to dredge Harwich Harbour if silt accumulated);

PART II —*cont.*

Section 24 (Notice of use of explosives);
Section 39 (Correction of errors in deposited plans and book of reference):

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 9 (Subsidiary works) (except subsection (7));
Section 10 (Temporary stoppage of highways);
Section 11 (Agreements as to construction of new works and transfer of undertaking);
Section 12 (Tidal works not to be executed without approval of Board of Trade);
Section 13 (Provision against danger to navigation);
Section 14 (Abatement of works abandoned or decayed);
Section 15 (Survey of tidal works);
Section 16 (Permanent lights on tidal works);
Section 17 (Lights on tidal works during construction);
Subsection (1) of Section 39 (Crown rights);
Section 41 (For protection of Trinity College);
Section 42 (Saving for Trinity House);

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 1968 to the works authorised by section 8 (Power to make works) of 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 or the Act of 1968 to the deposited plans, the deposited sections, the deposited book of reference or the limits of deviation (as defined in the Act of 1956 or, as the case may be, the Act of 1968) shall be construed as references to the deposited plans, the deposited sections, the deposited book of reference and the limits of deviation (as defined in this Act);

PART II —*cont.*

(*c*) the reference in the said section 24 of the Act of 1956 to the Felixstowe Urban District Council shall be construed as a reference to the Suffolk Coastal District Council;

(*d*) 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";

(*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 1968, as constructed;

(iii) for references to the East Suffolk and Norfolk River Board there were substituted references to the Anglian Water Authority; and

(iv) at the end there were added—

"(6) If there shall be any inconsistency between any plans approved or deemed to have been approved by the protected authority under this section and the plans approved under section 12 (Tidal works not to be executed without approval of Board of Trade) of this Act as applied by section 5 (Incorporation of provisions of Acts of 1956, 1963 and 1968 relating to works) of the Felixstowe Dock and Railway Act 1979, the authorised work to which the plans relate shall be constructed in accordance with the plans approved under the said section 12.";

(*f*) the said section 9 of the Act of 1968 shall have effect as if in subsection (1) (*a*) after "works" where that word first occurs there were inserted "(including breakwaters and training walls adjacent to those works)", paragraphs (ii) and (iii) of the proviso to that subsection were omitted and in subsection (4) (*e*) for the definition of "local authority" there were substituted "'local authority' means the Suffolk Coastal District Council;";

PART II —*cont.*

(*g*) nothing in the said section 9 of the Act of 1968 shall authorise the doing of anything constituting an infringement of the exclusive privilege with respect to telecommunication conferred on the Post Office by subsection (1) of section 24 of the Post Office Act 1969; 1969 c. 48.

(*h*) 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;

(*i*) sections 13 (Provision against danger to navigation), 16 (Permanent lights on tidal works) and 17 (Lights on tidal works during construction) of the Act of 1968 shall have effect as if—

(A) in the said section 13, after the word " House " where it first occurs there were inserted the words " and the Harwich Harbour Conservancy Board (hereafter in this Act referred to as ' the Conservancy Board ') " and after the word " House " where it secondly and thirdly occurs there were inserted the words " or the Conservancy Board ";

(B) in the said section 16, after the word " House " there were inserted the words " or the Conservancy Board "; and

(C) in the said section 17, for the words " as the Board of Trade shall from time to time direct " there were substituted the words " as the Secretary of State and the Conservancy Board, or as, failing agreement between them, the Secretary of State, shall direct".

For protection of conservancy and navigation in Harwich Harbour.

6. The following provisions shall have effect unless otherwise agreed between the Company and the Harwich Harbour Conservancy Board (in this section referred to as " the Conservancy Board "):—

(1) In this section " plans " include sections, drawings and specifications:

(2) Before commencing the construction of any tidal work the Company shall supply to the Conservancy Board for their reasonable approval plans of that work:

Provided that in the case of any work to be constructed under section 9 (Subsidiary works) of the Act of 1968 as applied for the purposes of this Act, being a work to be constructed in an emergency, the Company shall not

PART II —*cont.*

be required to submit plans under this paragraph before its commencement but shall give immediate notice of the work to the Conservancy Board and shall submit such plans to the Conservancy Board as soon as reasonably practicable after its commencement:

(3) The Conservancy Board may disapprove plans submitted to them under this section or approve them conditionally or unconditionally, and, if the Conservancy Board do not within 56 days of the submission to them of any plans notify the Company in writing of their approval of those plans (conditionally or unconditionally), they shall be deemed to have approved the plans:

(4) The works shall not be constructed except in accordance with such plans as may have been approved (conditionally or unconditionally) by the Conservancy Board under this section or, in the event of the disapproval or a conditional approval of plans which is unacceptable to the Company, settled as provided in paragraph (5) below:

(5) If it appears to the Company that the Conservancy Board have unreasonably withheld their approval to any plans under paragraph (3) above or approved any plans subject to unreasonable conditions they may appeal to the Secretary of State whose decision shall be binding upon the parties:

(6) If there shall be any inconsistency between the plans of any work approved by the Conservancy Board under this section and the plans approved by the Secretary of State under section 12 (Tidal works not to be executed without approval of Board of Trade) of the Act of 1968 as applied for the purposes of this Act the work shall be constructed in accordance with the plans approved by the Secretary of State.

Stopping up and diversion of footpaths, etc.

7.—(1) The Company may stop up the footpaths in the parishes of Felixstowe and Trimley St. Mary in the county of Suffolk lying between the following points marked respectively on sheet 2 of the deposited plans, namely between A and B, C and D, E and F, and G and H; and, as respects so much of the said footpaths as lies between the junction of Carr Road with Dock Road and the point B, for purposes of better and definitive identification is shown green on the signed plan.

(2) Upon the stopping up of any footpath under the powers of subsection (1) above, all rights of way over or along the footpaths or ways so stopped up shall be extinguished and the Company may appropriate and use the site and soil thereof so far as they are the owners of the same.

PART II —*cont.*

(3) Paragraph 9 (1) of Schedule 3 to the Countryside Act 1968 (which provides that in the special review, the draft revision and the definitive map and statement, every road used as a public path shall be shown as a byeway open to all traffic, a bridleway or a footpath) shall have effect as if the way between points E and F marked as " substitute way " on sheet 2 of the deposited plans had been shown as a " road used as a public path " in the last definitive map and statement. 1968 c. 41.

(4) (*a*) As soon as practicable after the whole or any part of a footpath has been stopped up in pursuance of subsection (1) of this section the Company shall send by post to the Post Office a notice informing it of such stopping up.

(*b*) Where the whole or any part of a footpath has been so stopped up the following provisions of this paragraph shall, unless otherwise agreed in writing between the Company and the Post Office, have effect in relation to so much of any telegraphic line belonging to or used by the Post Office as is under, in, upon, over, along or across the land which by reason of the stopping up ceases to be a footpath (in this subsection referred to as " the affected line "):—

(i) the power of the Post Office to remove the affected line shall be exercisable notwithstanding the stopping up, so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of 3 months from the date of the sending of the notice referred to in paragraph (*a*) of this subsection unless before the expiration of that period the Post Office has given notice to the Company of its intention to remove the affected line or that part thereof as the case may be within such reasonable period as may be specified in the said notice given to the Company;

(ii) the Post Office may by notice in that behalf to the Company abandon the affected line or any part thereof and shall be deemed as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of 3 months unless before the expiration of that period the Post Office has removed it or given notice of its intention to remove it;

(iii) the Post Office shall be entitled to recover from the Company the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as it may require;

(iv) where under sub-paragraph (ii) of this paragraph the Post Office has abandoned the whole or any part of the

PART II —*cont.*

affected line it shall vest in the Company and the provisions of the Telegraph Acts 1863 to 1916 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(5) In this section—

" the signed plan " means the plan of which five copies have been signed by David Knox the chairman of the Committee of the House of Commons to whom the Bill for this Act was referred and deposited respectively at—

(*a*) the office of the Clerk of the Parliaments, House of Lords;

(*b*) the Private Bill Office of the House of Commons;

(*c*) the Department of the Environment;

(*d*) the office of the proper officer of the Suffolk County Council; and

(*e*) the office of the proper officer of the Suffolk Coastal District Council;

" telegraphic line " has the meaning given in the Telegraph Act 1878; and

1878 c. 76.

" footpath " has the meaning given by the Highways Act 1959, but includes a bridleway within the meaning of that Act and a road used as a public path within the meaning of the National Parks and Access to the Countryside Act 1949.

1959 c. 25.

1949 c. 97.

Works to be within petty sessional division of Felixstowe.

8. So much of the works as is below mean low-water springs and outside the area of the petty sessional division of Felixstowe in the county of Suffolk shall be deemed to be within that area.

Modification of Town and Country Planning Act 1971. 1971 c. 78.

9. In their application to development authorised by this Part of 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 Part were limited to development begun within ten years after the passing of this Act.

For protection of British Gas Corporation.

10. For the protection of the British Gas Corporation (in this section referred to as " the corporation ") the provisions of this section shall, unless otherwise agreed in writing between the Company and the corporation, apply and have effect—

(1) In this section " apparatus " means mains, pipes and other apparatus belonging to or maintained by the

corporation and includes any works constructed for the lodging therein of apparatus; PART II —*cont.*

(2) Where, in consequence of section 7 (Stopping up and diversion of footpaths, etc.) of this Act, any part of any footpath in which any apparatus is situate ceases to be part of a footpath, the corporation may exercise the same rights in respect of such apparatus including rights of access to such apparatus as they enjoyed immediately before the passing of this Act.

PART III

FINANCE

Capital and borrowing powers.

11.—(1) Subject to and in accordance with the provisions of this Act, the Company may from time to time raise by the creation and issue of share capital or by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock, or wholly or partly by any one or more of those modes, such sums as, when added to any money raised by the issue of share capital or borrowed by the issue of loan capital and in either case outstanding at the date or respective dates on which the Company exercise the powers of this section, shall be sufficient to produce in the aggregate £130,000,000.

(2) (*a*) The Company may raise sums by the creation and issue of share capital under this section, by the creation and issue of ordinary shares or preference shares or wholly or partly by one or more of those modes.

(*b*) For the purposes of this section the amount raised or to be raised by the issue of share capital shall be taken to be the amount which has been or will be raised, as the case may be, after taking into account any premiums or discounts which may be obtained or allowed on the issue or re-issue thereof.

(*c*) The unexercised powers of the Company for raising money by the creation and issue of share capital under the Felixstowe Dock and Railway Acts 1879 to 1968 shall cease to be exercisable.

(*d*) Any share capital which the directors of the Company were before the coming into operation of this Act authorised by a resolution of the Company to create and issue and which was not so created and issued before the coming into operation of this Act may be created and issued by the directors of the Company under subsection (1) of this section and without any further requisite.

(3) (*a*) The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863, as amended in its application to the Company, but 1863 c. 118.

PART III —*cont.*

notwithstanding anything therein contained the principal moneys secured by and interest on all mortgages, debentures and debenture stock created and issued by the Company under this Act or any subsequent Act shall, subject to the provisions of any such subsequent Act, rank pari passu. Notice of the effect of this paragraph shall be endorsed on all mortgages and certificates of debenture stock issued after the passing of this Act.

(*b*) Subsection (2) of section 19 (Ranking of existing mortgage and redeemable debentures) of the Act of 1963 is hereby amended by the insertion after " the Felixstowe Dock and Railway Act 1968 " of the words " or the Felixstowe Dock and Railway Act 1979 " and by the substitution for " the said Act of 1968 " of the words " the said Acts of 1968 or 1979 ".

1968 c. xix.

Issue of convertible securities.

12.—(1) Any securities to which this section applies may have attached to them a right to the holder to have issued to him in substitution for the whole or any part of his holding of such securities a holding of ordinary shares or stock at such time or times and subject to such terms and conditions as the Company think fit.

(2) Any such securities in respect of which the right to convert into ordinary shares or stock has been exercised shall, upon the right being exercised, be deemed to have been paid off and cancelled, and in relation to any such securities, being preference shares or stock, section 11 (Capital and borrowing powers) of this Act shall have effect as if such securities had never been created and issued.

(3) The securities to which this section applies are—

(*a*) any preference shares or stock or debenture stock created and issued under the said section 11;

(*b*) any unsecured loan stock created and issued under section 27 (Unsecured loan stock) of the Act of 1968.

Priority of mortgages and debenture stock over other debts.

13. All money to be raised by the Company on mortgage or by the creation and issue of debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act:

Provided that this priority shall not affect any claim against the Company or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts, or in respect of any rent or sum reserved by, or payable under, any lease granted or made to, or vested in, the Company, which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

PART III —*cont.*

Appointment of receiver.

14. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than one-tenth of the amount for the time being borrowed by the Company.

Application of money.

15.—(1) All money raised under the Felixstowe Dock and Railway Acts 1879 to 1979, including premiums, shall be applied only to purposes to which capital is properly applicable; and any sum of money which may arise by way of premium from the issue of share capital under the provisions of this Act shall not be considered as part of the capital of the Company entitled to dividend.

(2) The Company may apply to any of the purposes of this Act to which capital is properly applicable any money which they have raised or are authorised to raise under the Felixstowe Dock and Railway Acts 1879 to 1979.

Saving for powers of Treasury.

16. It shall not be lawful to exercise the powers of borrowing or raising capital conferred by this Act otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

Share capital to be part of general capital.

17. Any share capital created and issued by the Company under the powers of this Act shall be part of the general capital of the Company and, save as is otherwise expressly provided by the terms of issue thereof, the shares or stock therein and the holders thereof respectively shall in proportion to the amount of their shares or stock be entitled to the like rights of voting and any other rights, qualifications and privileges, and be subject to the like provisions and liabilities, as if that capital were part of the capital of the Company created and issued under the Felixstowe Dock and Railway Acts 1879 to 1968 of the same class or description and the shares or stock were shares or stock in that capital.

Temporary borrowing.

18. In the proviso to paragraph (*a*) of section 17 of the Act of 1963 (as set out in section 30 of the Act of 1968) for the word " one " there shall be substituted the word " five ".

Payment of interest out of capital.

1968 c. xix.

19. Section 67 (Payment of interest out of capital) of the Act of 1956 is hereby amended as follows:—

(1) in subsection (1) after the words " the Felixstowe Dock and Railway Act 1968 " there shall be inserted " or of the Felixstowe Dock and Railway Act 1979 " and for

PART III —*cont.*

the words " the Felixstowe Dock and Railway Acts 1879 to 1968 " there shall be substituted " the Felixstowe Dock and Railway Acts 1879 to 1979 ";

1968 c. xix.

(2) in subsections (2) and (3) after the words " the Felixstowe Dock and Railway Act 1968 ", wherever those words occur there shall be inserted " or the Felixstowe Dock and Railway Act 1979 ".

Capitalisation of profits and reserves.

20.—(1) The Company in general meeting may, upon the recommendation of the directors, resolve to capitalise in whole or in part any sum standing to the credit of any of the Company's reserve accounts or the Company's profit and loss account, or any sum otherwise available for distribution.

(2) A sum the subject of a resolution under subsection (1) above shall be distributed amongst the shareholders who would have been entitled thereto if distributed by way of dividend and in the same proportions, but so that, subject to subsection (3) below, the same be not paid in cash but applied either in or towards paying up any amounts for the time being unpaid on any shares held by such shareholders respectively or in or towards paying up in full unissued shares or debentures of the Company to be allotted and distributed credited as fully paid up to, and amongst, those shareholders and in those proportions, or partly in the one way and partly in the other.

(3) The directors of the Company shall make all appropriations and applications of any sum resolved to be capitalised by any resolution passed under subsection (1) above and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, and in particular—

(*a*) may make provision by the issue of fractional certificates or by payment in cash or otherwise for shares or debentures becoming distributable in fractions; and

(*b*) may authorise any person to enter, on behalf of all the shareholders entitled thereto, into an agreement with the Company providing for—

(i) the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation; or

(ii) for the payment up by the Company on behalf of such shareholders by the application thereto of their respective proportions of the profits resolved to

be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares; PART III —*cont.*

and any agreement made under such authority shall be effective and binding on all such shareholders.

21. Sections 85, 86 and 87 of the Act of 1845 shall not apply to the Company. Qualification of directors, etc.

PART IV

ADMINISTRATION AND GENERAL

22. As from the passing of this Act the limits of the dock shall be the area described in Schedule 1 to this Act and notwithstanding anything contained in the Felixstowe Dock and Railway Acts 1879 to 1968 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.

23. The quorum for a general meeting of the Company (whether ordinary or extraordinary) shall be three members present in person or by proxy. Quorum for general meetings.

24. Notwithstanding the provisions of section 92 of the Act of 1845, a resolution in writing signed by all the directors of the Company shall be as effective as a resolution passed at a meeting of the directors duly convened and held, and may consist of several documents in the like form, each signed by one or more directors. Signing of minutes.

25. Notwithstanding anything in the Act of 1845, the holder or holders of a majority in nominal value of so much of the issued share capital of the Company as confers an entitlement to attend and vote at a general meeting of the Company may at any time by memorandum in writing signed by him or them and left at or sent to the principal office of the Company remove any director from office or appoint any person to be a director. Removal and appointment of directors.

26.—(1) Subsection (1) of section 31 (Extension of section 83 of Harbours Clauses Act) of the Act of 1956 is hereby amended by the addition after paragraph (*b*) thereof of the following:— Byelaws.

"(*c*) authorising the dock master to enter and inspect vessels within the limits of the dock for the purpose of ascertaining whether the special enactments relating to the Company and byelaws made thereunder are complied with;

(*d*) authorising a constable within the limits of the dock—

(i) to search any person whom he reasonably suspects of having in his possession or carrying in any manner anything stolen or unlawfully obtained; and

PART IV —*cont.*

(ii) if he reasonably suspects that anything stolen or unlawfully obtained may be found in or on any vehicle or vessel, to search the vehicle or vessel;

but the said paragraph (*d*) shall cease to have effect on 31st December 1984.".

1972 c. 70.

(2) Sections 236 (3) to (8), 237 and 238 of the Local Government Act 1972 shall apply to all byelaws to be made by the Company (except byelaws which relate solely to the Company, their officers or servants) as if the Company were a local authority and the secretary or other officer of the Company appointed by the directors were the proper officer of the local authority and section 237 as so applied shall have effect as if for the reference therein to £20 there were substituted reference to £50. The confirming authority for byelaws made by the Company shall be the Secretary of State.

(3) Section 101 (Byelaws) of the Act of 1956 and section 35 (Incorporation of section 101 of the Act of 1956) of the Act of 1968 are hereby repealed.

Amendment of section 28 of Harwich Harbour Act 1974.

1974 c. i.

27. Section 28 (For protection of Felixstowe Dock and Railway Company) of the Harwich Harbour Act 1974 is hereby amended as follows:—

In paragraph (1) for the words " the Felixstowe Dock and Railway Acts 1879 to 1968 " there shall be substituted the words " section 22 (Limits of dock) of the Felixstowe Dock and Railway Act 1979 ".

Amendment of section 4 of Act of 1963.

28. Subsection (1) of section 4 (Interpretation) of the Act of 1963 is hereby amended as follows:—

(1) the definition of the expression " hover vehicle " shall be omitted;

(2) in the definitions of the expressions " seaplane " and " vessel " for the words " hover vehicle " there shall in each case be substituted the words " hovercraft as defined in the Hovercraft Act 1968 ".

1968 c. 59.

Repeals.

29. The enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Costs of Act.

30. 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.

SCHEDULES

SCHEDULE 1

Section 22.

LIMITS OF THE DOCK

In this Schedule a group of ten figures identifying or associated with any point represents the map co-ordinates (under grid letters TM) of that point estimated to the nearest metre on the grid of the national reference system used by the Ordnance Survey on its maps and plans.

An area bounded by an imaginary line commencing at a point 28273/31910 thence in an easterly direction to the western boundary of Landguard Fort to a point at 28315/31910 thence along the western, northern and eastern boundaries of Landguard Fort to a point on the eastern boundary at 28397/31960 thence in an easterly direction to a point at 28417/31960 thence following the curve of Landguard Road to a point at 28424/31981 thence in a north-easterly direction following the line of Landguard Road to a point after the bend at 28688/32188 thence in a straight line in a north-north-easterly direction to a point at 28759/32324 thence in a straight line in a north-north-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 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 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 northern 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 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

SCH. 1 —*cont.*

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 the sea wall and terminating at the point of commencement.

Section 29.

SCHEDULE 2

ENACTMENTS REPEALED

Chapter number	Short title	Extent of repeal
4 & 5 Eliz. 2. c. lxxxviii.	Felixstowe Dock and Railway Act 1956.	Sections 13, 55 to 57, 62 to 64, 78, 88 (2) and (3) and 101.
1963 c. xxxvi.	Felixstowe Dock and Railway Act 1963.	Sections 5, 15, 16, 18 and 22 and Schedule 2.
1968 c. xix.	Felixstowe Dock and Railway Act 1968.	Sections 6, 24 to 26, 28, 29 and 35 and Schedule 1.

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Felixstowe Dock and Railway Act 1979

CHAPTER xvi

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2. Incorporation of Acts.
3. Interpretation.

PART II

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4. Power to make works.
5. Incorporation of provisions of Acts of 1956, 1963 and 1968 relating to works.
6. For protection of conservancy and navigation in Harwich Harbour.
7. Stopping up and diversion of footpaths, etc.
8. Works to be within petty sessional division of Felixstowe.
9. Modification of Town and Country Planning Act 1971.
10. For protection of British Gas Corporation.

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Section
11. Capital and borrowing powers.
12. Issue of convertible securities.
13. Priority of mortgages and debenture stock over other debts.
14. Appointment of receiver.
15. Application of money.
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17. Share capital to be part of general capital.
18. Temporary borrowing.
19. Payment of interest out of capital.
20. Capitalisation of profits and reserves.
21. Qualification of directors, etc.

PART IV

ADMINISTRATION AND GENERAL

22. Limits of dock.
23. Quorum for general meetings.
24. Signing of minutes.
25. Removal and appointment of directors.
26. Byelaws.
27. Amendment of section 28 of Harwich Harbour Act 1974.
28. Amendment of section 4 of Act of 1963.
29. Repeals.
30. Costs of Act.

SCHEDULES:

Schedule 1—Limits of the dock.

Schedule 2—Enactments repealed.