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STATUTORY INSTRUMENTS

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**2016 No. 853**

**The River Humber Gas Pipeline Replacement Order 2016**

**PART 4**

Miscellaneous and general

**Application of landlord and tenant law**

**38.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

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**Commencement Information**

**11** Art. 38 in force at 15.9.2016, see [art. 1](#)

**Deemed consent under Part 4 (marine licensing) of the Marine and Coastal Access Act 2009**

**39.** The marine licence set out in Schedule 9 is deemed to have been issued under Part 4 of the 2009 Act (marine licensing) for the licensable marine activities (as defined in section 66 of the 2009 Act) set out in Part 2, and subject to the conditions set out in Part 3, of the licence

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**Commencement Information**

**I2** Art. 39 in force at 15.9.2016, see [art. 1](#)

**Operational land for purposes of the 1990 Act**

**40.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3) of the 1990 Act (cases in which land is to be treated as not being operational land for the purposes of that Act).

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**Commencement Information**

**I3** Art. 40 in force at 15.9.2016, see [art. 1](#)

**Felling or lopping of trees or shrubs**

**41.—(1)** The undertaker may fell or lop any tree or shrub near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (b) from constituting a danger to persons constructing, maintaining, operating or using the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) The undertaker may remove—

- (a) hedgerows shown on the works plans; and
- (b) with the approval of the relevant planning authority, which is not to be unreasonably withheld or delayed, any other hedgerow within the Order limits if the undertaker reasonably believes it to be necessary to do so for the purposes of the construction and/or operation of the authorised project.

(4) The undertaker is not required to obtain any consent to remove a hedgerow referred to in paragraph (3) under the Hedgerows Regulations 1997(1).

(5) Reference to “planning permission” in regulation 6 (permitted work) of the Hedgerows Regulations 1997 includes this Order.

(6) In this article—

- (a) “hedgerow” includes—
  - (i) hedgerows to which the Hedgerows Regulations 1997 apply; and
  - (ii) any part of a hedgerow.

(7) Any dispute as to a person’s entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

**Commencement Information**

**I4** Art. 41 in force at 15.9.2016, see [art. 1](#)

**Protective provisions**

**42.** Schedule 10 (protective provisions) to this Order has effect.

**Commencement Information**

**I5** Art. 42 in force at 15.9.2016, see [art. 1](#)

**Crown rights**

**43.—**(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee—

- (a) to use, enter upon or in any manner interfere with any land or rights of any description—
  - (i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
  - (ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
  - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department; or
- (b) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory purchase of any interest in any Crown land (as defined in the 2008 Act) for the time being held otherwise than by or on behalf of the Crown.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions, and is deemed to have been given in writing where it is sent electronically.

**Commencement Information**

**I6** Art. 43 in force at 15.9.2016, see [art. 1](#)

**Certification of plans etc.**

**44.—**(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—

- (a) the access and rights of way plans;
- (b) the book of reference;
- (c) the environmental statement;
- (d) the land plans;
- (e) the works plans;
- (f) the initial CEMP; and

(g) the initial TMP

for certification that they are true copies of the plans or documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

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**Commencement Information**

**I7** Art. 44 in force at 15.9.2016, see [art. 1](#)

**Service of notices**

**45.**—(1) A notice or other document required or authorised to be served, given or supplied under this Order may be served, given or supplied in any of these ways—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied;
- (b) by leaving it at the usual or last known place of abode of that person or, in a case where an address for service has been given by that person, at that address;
- (c) by sending it by post, addressed to that person at that person’s usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
- (d) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at that person’s usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
- (e) in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address;
- (f) in the case of an incorporated company or body—
  - (i) by delivering it to the secretary or clerk of the company or body at their registered or principal office;
  - (ii) by sending it by post, addressed to the secretary or clerk of the company or body at that office; or
  - (iii) by sending it in a prepaid registered letter or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office.

(2) The condition mentioned in sub-paragraph (e) is that the notice or other document must be -

- (a) capable of being accessed by the person mentioned in that provision;
- (b) legible in all material respects; and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(3) For the purposes of paragraph (2), “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

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**Commencement Information**

**I8** Art. 45 in force at 15.9.2016, see [art. 1](#)

## Arbitration

46. Any difference under any provision of this Order, unless otherwise provided for (including determination by the tribunal) or unless otherwise agreed between the parties, must 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 giving notice in writing to the other) by the Secretary of State.

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### Commencement Information

**I9** Art. 46 in force at 15.9.2016, see [art. 1](#)

## Procedure in relation to certain approvals etc.

47. Schedule 12 (Procedure in relation to certain approvals etc.) has effect.

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### Commencement Information

**I10** Art. 47 in force at 15.9.2016, see [art. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The River Humber Gas Pipeline Replacement Order 2016, PART 4.