
STATUTORY INSTRUMENTS

2016 No. 853

The River Humber Gas Pipeline Replacement Order 2016

PART 3

Acquisition and possession of land

Temporary use of land for carrying out the authorised project

27.—(1) The undertaker may, in connection with the carrying out of the authorised project—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (2) of Schedule 8 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised project specified in column (4) of that Schedule;
 - (ii) any Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (powers of entry) (other than in connection with the requisition of rights only) and no declaration has been made under section 4 of the 1981 Act (execution of declaration) for the purposes of constructing and carrying out the authorised project;
- (b) remove any buildings and vegetation from that land referred to in paragraphs (1)(a)(i) and (a)(ii);
- (c) construct temporary works (including the provision of means of access) and buildings on that land referred to in paragraphs (1)(a)(i) and (a)(ii); and
- (d) construct and carry out any mitigation works on that land referred to in paragraphs (a)(i) and (a)(ii).

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i) after the end of the period of two years beginning with the date of completion of the authorised project; or
- (b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the authorised project unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act,

and in this paragraph the date on which the authorised project is completed means the date on which the undertaker has certified that it is first capable of being brought into operational use for the purpose for which it was designed.

(4) Before giving up possession of land of which temporary possession has been taken under this article, unless otherwise agreed by the owners of the land, the undertaker must remove all temporary

works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under subparagraph (1)(d); or
- (c) remove any ground-strengthening works which have been placed in that land to facilitate construction of the authorised project.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of any power conferred by this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act by the tribunal using established relevant valuation principles under the Act notwithstanding that paragraph (5) relates to temporary possession rather than the compulsory acquisition of land.

(7) Nothing in this article affects any liability to pay compensation under section 10(2) of the 1965 Act (further provisions as to compensation for injurious affection) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 22 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil or of the airspace over (or rights in the subsoil or of the airspace over) that land (other than plot 132 on the land plans) under article 24 (acquisition of subsoil only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act(1) (refusal to give possession to acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Subject to paragraph (3), nothing in this article prevents the taking of temporary possession pursuant to it more than once in relation to any land specified in paragraph (1).

(1) Section 13 is amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15).