
STATUTORY INSTRUMENTS

2016 No. 853

The River Humber Gas Pipeline Replacement Order 2016

PART 2 E+W+S

Works Provisions

Development consent, etc. granted by Order E+W+S

4.—(1) Subject to the provisions of this Order and the Requirements in Schedule 3 (requirements), the undertaker is granted—

- (a) development consent for the works comprising the authorised development in Part 1 of Schedule 1 (authorised project) and further associated development relating to those works set out in Part 2 of that Schedule; and
- (b) consent for the ancillary works relating to those works,

to be carried out within the Order limits.

(2) Each Work must be constructed and maintained within the limits of deviation for that Work.

(3) In carrying out a Work, as described in Schedule 1, the undertaker may deviate from the situations shown on the works plans in Schedule 2 (plans) to the extent of the limits of deviation.

Commencement Information

I1 Art. 4 in force at 15.9.2016, see [art. 1](#)

Maintenance of authorised project E+W+S

5.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order or an agreement made under this Order provides otherwise.

Commencement Information

I2 Art. 5 in force at 15.9.2016, see [art. 1](#)

Operation of authorised project E+W+S

6.—(1) The undertaker is authorised to operate the authorised project.

(2) This article does not relieve the undertaker of any requirement to obtain any permit or licence under any other legislation that may be required to authorise the operation of the authorised project.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the The River Humber Gas Pipeline Replacement Order 2016, PART 2. (See end of Document for details)

Commencement Information

I3 Art. 6 in force at 15.9.2016, see [art. 1](#)

Limits of deviation **E+W+S**

- 7.—(1) Save in relation to the drainage works, where paragraph (2) applies, the undertaker may—
- (a) in respect of the location of any work comprised in the authorised development deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation for that work shown on those plans; and
 - (b) in respect of Work No.1 deviate vertically;
 - (i) for each or any part of Work No. 1 referred to in column 1 of the table below, to the limit upwards specified in relation to that part of Work No.1 in column 2 of that table;
 - (ii) to any extent downwards as may be found necessary or practical to a maximum depth of 70 metres below the surface of the ground; and
 - (iii) except that subparagraph (i) does not apply to those parts of Work No.1 that are built within the Goxhill AGI and the Paull AGI.

Table 1

(1) <i>Scheduled Work</i>	(2) <i>Upwards Vertical Deviation Limits</i>			
	Below ground level (m)	Below watercourses (m)	Below true clean bed (m)	Below highways (m)
1A	1.2	1.7	Not applicable	Not applicable
1B	4.0	1.7	7.0	Not applicable
1C	1.2	1.7	Not applicable	2.0

- (c) deviate or place Work Nos. 2, 3, 4, 7 and 8 laterally and vertically to the limits set for these works in paragraph 1 of Schedule 1.
 - (d) carry out construction activities for the purposes of the authorised project anywhere within the Order limits.
- (2) The undertaker may construct the drainage works anywhere within the Order limits.

Commencement Information

I4 Art. 7 in force at 15.9.2016, see [art. 1](#)

Defence to proceedings in respect of statutory nuisance **E+W+S**

8.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(1) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be

(1) 1990 c.43; section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993 (c.40), Schedule 17 to the Environmental Act 1995 (c.25) and section 103 of the Clean Neighbourhoods and Environment Act 2005 (c.16).

prejudicial to health or a nuisance) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(2); or
 - (ii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in accordance with Requirement 13; or
 - (ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), do not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

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Commencement Information

I5 Art. 8 in force at 15.9.2016, see [art. 1](#)

Benefit of Order **E+W+S**

9.—(1) Subject to article 10 (transfer of benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the benefit of the consent granted by this Order for works carried out by the undertaker for the benefit or protection of land or persons (including statutory undertakers) affected by the authorised project.

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Commencement Information

I6 Art. 9 in force at 15.9.2016, see [art. 1](#)

Transfer of benefit of Order **E+W+S**

10.—(1) The undertaker may with the consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions in this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or

(2) [1974 c.40](#). Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act [1990, c.25](#). There are other amendments to the 1974 Act which are not relevant to this Order.

Status: Point in time view as at 15/09/2016.

Changes to legislation: There are currently no known outstanding effects for the The River Humber Gas Pipeline Replacement Order 2016, PART 2. (See end of Document for details)

(b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Commencement Information

I7 Art. 10 in force at 15.9.2016, see [art. 1](#)

Street Works **E+W+S**

11.—(1) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it (including for the purposes of carrying out surveys to ascertain the location of apparatus);
- (b) tunnel or bore under the street;
- (c) place apparatus in or under the street;
- (d) maintain apparatus in or under the street or change its position; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d) above.

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act⁽³⁾.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1) save that—

- (a) section 61(1) of the 1991 Act (under which the consent of the street authority is required for the placing of apparatus in a protected street) does not apply to the placing of apparatus in the course of the authorised project;
- (b) section 62(2) of the 1991 Act (power following the designation of a protected street to require removal or repositioning of apparatus already placed in the street) does not, unless otherwise agreed with the undertaker, apply in relation to apparatus placed in the course of the authorised project; and
- (c) section 62(4) of the 1991 Act (power when a designation as a protected street commences or ceases to give directions with respect to works in progress) does not, unless otherwise agreed with the undertaker, apply in relation to the authorised project.

(4) In this article “apparatus” and “street works” have the same meanings as in Part 3 of the 1991 Act save that “apparatus” further includes pipelines (and parts of them), aerial markers, cathodic protection test posts, field boundary markers, monitoring kiosks and electricity cabinets.

(3) Section 48 is amended by the Local Transport Act 2008 (c.26) s.124(2); section 51 is amended by Schedule 1 to the Traffic Management Act 2004 (c.18).

Commencement Information

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

Power to alter layout, etc. of streets **E+W+S**

12.—(1) The undertaker may alter the layout of a street specified in column (2) of Schedule 5 (streets subject to alteration of layout) in the manner specified in relation to that street in column (3).

(2) Without prejudice to the specific powers conferred by article 4 (development consent etc. granted by the Order) or paragraph (4) but subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised project, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limiting the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, verge or central reservation within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, verge or central reservation;
- (c) reduce the width of the carriageway of the street;
- (d) make crossovers and passing places;
- (e) carry out works for the provision or alteration of parking places, loading bays and cycle tracks; and
- (f) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (e) above.

(3) The powers conferred by paragraph (2) must not be exercised without the consent of the street authority but such consent must not be unreasonably withheld or delayed.

(4) The undertaker may, for the purposes of the authorised project, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) and Schedule 5 (streets subject to alteration of layout) as is within the Order limits and may—

- (a) execute any works to provide or improve sight lines required by the highway authority;
- (b) remove and replace kerbs and flume ditches for the purposes of creating permanent and temporary accesses;
- (c) execute and maintain any works to provide hard and soft landscaping;
- (d) carry out re-lining and placement of new temporary markings; and
- (e) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (d) above.

Commencement Information

19 Art. 12 in force at 15.9.2016, see [art. 1](#)

Construction and maintenance of new, altered or diverted streets **E+W+S**

13.—(1) Any street to be constructed under this Order in respect of which the undertaker has given the highway authority notice that this paragraph applies must be completed to the reasonable satisfaction of the highway authority and, unless otherwise agreed with the highway authority, must

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be maintained by and at the expense of the undertaker for a period of 24 months from its completion and at the expiry of that period by and at the expense of the highway authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker for a period of 24 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) Where any street not previously part of the public highway is constructed pursuant to this Order it will on the undertaker giving notice to the highway authority (and street authority if different) that this paragraph applies be deemed to be dedicated for public use as highway on the completion of that street.

(4) Paragraphs (1) to (3) do not apply in relation to the structure of any bridge carrying a street.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it will be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(7) Nothing in this article—

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

Commencement Information

110 Art. 13 in force at 15.9.2016, see [art. 1](#)

Temporary stopping up of streets and public rights of way **E+W+S**

14.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street or any public right of way and may for any reasonable time—

- (a) divert the traffic or a class of traffic from the street or public right of way; and
- (b) subject to paragraph (2), prevent all persons from passing along the street or public right of way.

(2) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up, alteration or diversion of a street or public right of way under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets or public rights of way specified in Schedule 6 (streets and public rights of way to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the access and rights of way plans, in column 3.

(4) The undertaker may not temporarily stop up, alter or divert—

- (a) any street or public right of way specified as mentioned in paragraph (3) without first consulting the highway authority; and
- (b) any other street or public right of way without the consent of the highway authority, which must not be unreasonably withheld or delayed but the highway authority may attach reasonable conditions to any such consent.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Commencement Information

I11 Art. 14 in force at 15.9.2016, see [art. 1](#)

Access to works **E+W+S**

15.—(1) The undertaker may, for the purposes of the construction and/or the maintenance of the authorised project—

- (a) form and lay out means of access, or improve existing means of access, as specified in column (2) of Schedule 7 (access to works); and
- (b) with the approval of the relevant planning authority, which is not to be unreasonably withheld or delayed, after consultation with the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

Commencement Information

I12 Art. 15 in force at 15.9.2016, see [art. 1](#)

Traffic Regulation **E+W+S**

16.—(1) Subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld or delayed,

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the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction, operation, or maintenance of the authorised project—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road;

either at all times or at times, on days or during such periods as may be specified by the undertaker.

- (2) The undertaker may not exercise the powers in paragraph (1) unless it has—
 - (a) given not less than 4 weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker's intention under sub-paragraph (a).
- (3) Any prohibition, restriction or other provision made by the undertaker under paragraph (1)—
 - (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act; and
 - (b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(4) (road traffic contraventions subject to civil enforcement).
- (4) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (1) at any time.
- (5) Before complying with the provisions of paragraph (2) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.
- (6) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

Commencement Information

113 Art. 16 in force at 15.9.2016, see [art. 1](#)

Agreements with street authorities **E+W+S**

- 17.**—(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street including any structure carrying the street over or under any part of the authorised project;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;

(4) 2004 c.18.

- (c) any stopping up, alteration or diversion of a street authorised by this Order; or
 - (d) the carrying out in the street of any of the works referred to in article 11(1) (street works).
- (2) Such an agreement may, without prejudice to the generality of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and street authority specifying a reasonable time for completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Commencement Information

I14 Art. 17 in force at 15.9.2016, see [art. 1](#)

Discharge of water **E+W+S**

18.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits make openings into, and connections with, that watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a question arising under section 106 of the Water Industry Act 1991⁽⁵⁾ (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and
- (b) where that person has been given the opportunity to observe the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river unless otherwise authorised under the provisions of Part 3 (for the protection of the Environment Agency) of Schedule 10 (protective provisions) of this Order.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) This article does not authorise a groundwater activity or a water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2010.

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environmental Agency, a harbour authority within the meaning of section 57 of the Harbours Act 1964⁽⁶⁾ (interpretation), an internal drainage board, a

⁽⁵⁾ 1991 c.56. Section 106 was amended by section 35(8)(a) of the Competition and Service (Utilities) Act 1992 (c.43) and by sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.

⁽⁶⁾ 1964 c.40.

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joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and

- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2010 have the same meaning as in those Regulations.

Commencement Information

I15 Art. 18 in force at 15.9.2016, see [art. 1](#)

Authority to survey and investigate the land **E+W+S**

19.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised project and—

- (a) survey and/or investigate the land;
- (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and/or subsoil and/or to remove soil samples;
- (c) without prejudice to the generality of sub-paragraph (a), carry out ecological, hydrogeological and/or archaeological investigations on the land; and/or
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and/or investigation of land, the making of trial holes.

(2) The power conferred by sub-paragraph (1)(c) includes without prejudice to the generality of that sub-paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

- (a) water;
- (b) air;
- (c) soil or rock;
- (d) its flora;
- (e) bodily excretions, or dead bodies, of non-human creatures; or
- (f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required entering the land, produce written evidence of their authority to do so; and
- (b) may take with them such vehicles and equipment as are necessary to carry out the survey, investigation, monitoring, or to make the trial holes.

(5) No trial holes may be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent must not be unreasonably withheld or delayed.

(6) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be

determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

Commencement Information

I16 Art. 19 in force at 15.9.2016, see [art. 1](#)

Removal of human remains **E+W+S**

20.—(1) In this article “the specified land” means any land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised project; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person must, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question must be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land;
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days;
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or

(d) it is determined that the remains to which any such notice relates cannot be identified, subject to paragraph (10) the undertaker must remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves must be re-interred in individual containers which must be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation must be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) must be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857(7)() (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

(15) Sections 238 and 239 of the 1990 Act (use and development of consecrated land and burial grounds) apply—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised project (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 27 (temporary use of land for carrying out the authorised project) and 28 (temporary use of land for maintaining the authorised project), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order, without prejudice to the status of the land over which the right is exercised as consecrated land,

and in section 238(1)(b) of the 1990 Act reference to a “planning permission” includes this Order, in section 240(1) of the 1990 Act reference to “regulations made for the purposes of sections 238(3) and (4) and 239(2)” means, so far as applicable to land or a right over land acquired under this Order, paragraphs (2) to (13) of this article and in section 240(3) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

(16) The Town and Country Planning (Churches, Places of Religious Worship and Burial Ground) Regulations 1950(8) do not apply to the authorised project.

(7) 1857 c.81; section 25 is amended by the Criminal Justice Act 1982 (c.48) s.46.

(8) S.I. 1950/792.

Commencement Information

I17 Art. 20 in force at 15.9.2016, see [art. 1](#)

Status:

Point in time view as at 15/09/2016.

Changes to legislation:

There are currently no known outstanding effects for the The River Humber Gas Pipeline Replacement Order 2016, PART 2.