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STATUTORY INSTRUMENTS

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**1994 No. 2716**

**The Conservation (Natural Habitats, &c.) Regulations 1994**

**PART IV**

**ADAPTATION OF PLANNING AND OTHER CONTROLS**

*Electricity*

**Consents under Electricity Act 1989: application of general requirements**

**71.**—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the granting of—

- (a) consent under section 36 of the Electricity Act 1989<sup>(1)</sup> to construct, extend or operate a generating station, or
- (b) consent under section 37 of that Act to install an electric line above ground.

(2) Where in such a case the Secretary of State considers that any adverse effects of the plan or project on the integrity of a European site would be avoided if the consent were subject to conditions, he may grant consent subject to those conditions.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, &c.) apply to such a consent as is mentioned in paragraph (1) unless—

- (a) the works to which the consent relates have been completed before the site became a European site or, if later, the commencement of these Regulations, or
- (b) the consent was granted subject to a condition as to the time within which the works to which it relates were to be begun and that time has expired without them having been begun, or
- (c) it was granted for a limited period and that period has expired.

Where the consent is for, or includes, the operation of a generating station, the works shall be treated as completed when, in reliance on the consent, the generating station is first operated.

(4) Where on the review of such a consent the Secretary of State considers that any adverse effects on the integrity of a European site of the carrying out or, as the case may be, the continuation of the plan or project would be avoided by a variation of the consent, he may vary the consent accordingly.

(5) In conjunction with the review of any such consent the Secretary of State shall review any direction deeming planning permission to be granted for the plan or project and may vary or revoke it.

**Consents under the Electricity Act 1989: procedure on review**

**72.**—(1) Where the Secretary of State decides in pursuance of regulation 71 to revoke or vary a consent under the Electricity Act 1989, or a direction deeming planning permission to be granted, he shall serve notice on—

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(1) 1989 c. 29.

(a) the person to whom the consent was granted or, as the case may be, in whose favour the direction was made,

(b) in the case of a consent under section 36 of the Electricity Act 1989, any other person proposing to operate the generating station in question, and

(c) any other person who in his opinion will be affected by the revocation or variation,

informing them of the decision and specifying a period of not less than 28 days within which any person on whom the notice is served may make representations to him.

(2) The Secretary of State shall also serve notice on—

- (a) the relevant planning authority within the meaning of paragraph 2(6) of Schedule 8 to the Electricity Act 1989, and
- (b) the appropriate nature conservation body,

informing them of the decision and inviting their representations within the specified period.

(3) The Secretary of State shall consider whether to proceed with the revocation or variation, and shall have regard to any representations made to him in accordance with paragraph (1) or (2).

(4) If within the specified period a person on whom notice was served under paragraph (1), or the relevant planning authority, so requires, the Secretary of State shall before deciding whether to proceed with the revocation or variation give—

- (a) to them, and
- (b) to any other person on whom notice under paragraph (1) or (2) was required to be served,

an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

### **Consents under Electricity Act 1989: effect of review**

**73.**—(1) The revocation or variation pursuant to regulation 71 of a consent under section 36 or 37 of the Electricity Act 1989, or a direction deeming planning permission to be granted, shall take effect upon service of the notices required by regulation 72(1) or, where there is more than one such notice and those notices are served at different times, from the date on which the last of them was served.

(2) Where the Secretary of State decides not to proceed with the revocation or variation, the consent or direction shall have effect again from the time of that decision, and shall thereafter have effect as if—

- (a) any period specified in the consent or direction for the taking of any action, being a period which had not expired prior to the date mentioned in paragraph (1), were extended by a period equal to that during which the revocation or variation had effect; and
- (b) there were substituted for any date specified in the consent or direction as being a date by which any action should be taken, not being a date falling prior to that date mentioned in paragraph (1), such date as post-dates the specified date by a period equal to that during which the revocation or variation had effect;

(3) The revocation or variation pursuant to regulation 71 of a consent under section 36 or 37 of the Electricity Act 1989, or a direction deeming planning permission to be granted, shall not affect anything done under the consent or direction prior to the revocation or variation taking effect.

### **Consents under Electricity Act 1989: compensation for revocation or variation**

**74.**—(1) Where a direction deeming planning permission to be granted is revoked or varied pursuant to regulation 71, that permission shall be treated—

- (a) for the purposes of Part IV of the Town and Country Planning Act 1990 (compensation) as having been revoked or modified by order under section 97 of that Act, or
  - (b) for the purposes of Part VIII of the Town and Country Planning (Scotland) Act 1972 (compensation) as having been revoked or modified by order under section 42 of that Act.
- (2) Where a consent under section 36 or 37 of the Electricity Act 1989 is revoked or varied pursuant to regulation 71, Part IV of the Town and Country Planning Act 1990 or Part VIII of the Town and Country Planning (Scotland) Act 1972 (compensation) shall apply as if–
- (a) the consent had been planning permission granted on an application under that Act and had been revoked or modified by order under section 97 of the 1990 Act or section 42 of the 1972 Act; and
  - (b) each of those Parts provided that the Secretary of State was the person liable to pay any compensation provided for by that Part.

This paragraph shall not have effect to confer any right to compensation for any expenditure, loss or damage for which compensation is payable by virtue of paragraph (1) above.

(3) Where the Secretary of State decides not to proceed with the revocation or variation of a consent under section 36 or 37 of the Electricity Act 1989, or a direction deeming planning permission to be granted, any claim for compensation by virtue of this regulation shall be limited to any loss or damage directly attributable to the consent or direction ceasing to have effect or being varied for the duration of the period between the revocation or variation taking effect under regulation 73(1) and the Secretary of State deciding not to proceed with it.

(4) Where compensation is payable by virtue of this regulation, the question as to the amount of the compensation shall be referred to and determined by the Lands Tribunal, or the Lands Tribunal for Scotland, unless and to the extent that in any particular case the Secretary of State has indicated in writing that such a reference and determination may be dispensed with.