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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**

*Transport and works*

**Orders under the Transport and Works Act 1992: application of general requirements**

**79.**—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the making of an order under section 1 or 3 of the Transport and Works Act 1992<sup>(1)</sup>.

(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 by making modifications to the proposals, he may make an order subject to those modifications.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, &c.) apply to an order under section 1 or 3 of the Transport and Works Act 1992 unless the works to which the order relates have been completed before the site became a European site.

(4) Where on the review of such an order 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 order, he may vary it accordingly.

(5) In conjunction with the review of any such order 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.

**Orders under the Transport and Works Act 1992: procedure on review**

**80.**—(1) Where the Secretary of State decides in pursuance of regulation 79 to revoke or vary an order the Transport and Works Act 1992, or a direction deeming planning permission to be granted, he shall serve notice on—

(a) the person (if any) on whose application the order was made or, as the case may be, in whose favour the direction was made, and

(b) 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 local planning authority, and

(b) the appropriate nature conservation body,

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

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(1) 1992 c. 42.

(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 local planning authority, so requires, the Secretary of State shall before deciding whether to proceed with the revocation or variation of the order or direction give—

(a) to them,

(b) to any other person on whom notice under paragraph (1) and (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.

### **Order under the Transport and Works Act 1992: effect of review**

**81.**—(1) The revocation or variation pursuant to regulation 79 of an order under the Transport and Works Act 1992, or of a direction deeming planning permission to be granted, shall take effect upon service of the notices required by regulation 80(1) or, where there is more than one such notice and those notices are served at different times, upon the service of the last notice to be served.

(2) Where the Secretary of State decides not to proceed with the revocation or variation, the order 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 order 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 order 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 79 of an order under section 1 or 3 of the Transport and Works Act 1992, or of a direction deeming planning permission to be granted, shall not affect anything done under the order or direction prior to the revocation or variation taking effect.

### **Orders under the Transport and Works Act 1992: compensation for revocation or variation**

**82.**—(1) Where a direction deeming planning permission to be granted is revoked or varied pursuant to regulation 79, that permission shall be treated 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.

(2) Where an order under section 1 or 3 of the Transport and Works Act 1992 is revoked or varied pursuant to regulation 79, Part IV of the Town and Country Planning Act 1990 shall apply as if—

(a) the order had been planning permission granted on an application under that Act and had been revoked or modified by order under section 97 of that Act; and

(b) that Part 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 an order under section 1 or 3 of the Transport and Works Act 1992, 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 order or direction ceasing to have effect or being varied

for the duration of the period between the revocation or variation taking effect under regulation 81(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 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.