
STATUTORY INSTRUMENTS

1994 No. 2716

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

[^{F1}PART IV

ADAPTATION OF PLANNING AND OTHER CONTROLS

Planning

[^{F1}Grant of planning permission

54.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F2}European sites in Great Britain and European offshore marine sites]) apply, in England and Wales, in relation to—

- (a) granting planning permission on an application under Part III of the Town and Country Planning Act 1990⁽¹⁾;
- (b) granting planning permission, or upholding a decision of the local planning authority to grant planning permission (whether or not subject to the same conditions and limitations as those imposed by the local planning authority), on determining an appeal under section 78⁽²⁾ of that Act in respect of such an application;
- (c) granting planning permission under—
 - (i) section 141⁽²⁾(a) of that Act (action by Secretary of State in relation to purchase notice),
 - (ii) section 177⁽¹⁾(a)⁽³⁾ of that Act (powers of Secretary of State on appeal against enforcement notice), or
 - (iii) section 196⁽⁵⁾⁽⁴⁾ of that Act as originally enacted (powers of Secretary of State on reference or appeal as to established use certificate);
- (d) directing under section 90⁽¹⁾, ⁽²⁾ or ^(2A)⁽⁵⁾ of that Act (development with government authorisation), or under section 5⁽¹⁾ of the Pipe-lines Act 1962⁽⁶⁾, that planning permission shall be deemed to be granted;
- (e) making—
 - (i) an order under section 102⁽⁷⁾ of that Act (order requiring discontinuance of use or removal of buildings or works), including an order made under that section by virtue of section 104 (powers of Secretary of State), which grants planning permission, or

⁽¹⁾ 1990 c. 8.

⁽²⁾ Section 78 was amended by section 17⁽²⁾ of the Planning and Compensation Act 1991 (c. 34).

⁽³⁾ Section 177⁽¹⁾(a) was substituted by paragraph 24⁽¹⁾(a) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34).

⁽⁴⁾ Section 196⁽⁵⁾ was repealed by paragraph 33^(e) of Schedule 7 to the Planning and Compensation Act 1991 (c. 34), but that repeal does not apply to appeals arising out of applications made under section 192⁽¹⁾ (as originally enacted) before 27th July 1992.

⁽⁵⁾ Section 90^(2A) was inserted by section 16⁽¹⁾ of the Transport and Works Act 1992 (c. 42).

⁽⁶⁾ 1962 c. 58.

⁽⁷⁾ Section 102 was amended by paragraph 6 of Schedule 1, and paragraph 21 of Schedule 7, to the Planning and Compensation Act 1991 (c. 34).

- (ii) an order under paragraph 1 of Schedule 9⁽⁸⁾ to that Act (order requiring discontinuance of mineral working), including an order made under that paragraph by virtue of paragraph 11 of that Schedule (default powers of Secretary of State), which grants planning permission,
- or confirming any such order under section 103 of that Act;
- (f) directing under—
- (i) section 141(3) of that Act (action by Secretary of State in relation to purchase notice), or
- (ii) section 35(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990⁽⁹⁾ (action by Secretary of State in relation to listed building purchase notice),
- that if an application is made for planning permission it shall be granted.
- (2) Regulations 48 and 49 (requirement to consider effect on [^{F3}European sites in Great Britain and European offshore marine sites]) apply, in Scotland, in relation to—
- (a) granting planning permission on an application under Part III of the Town and Country Planning (Scotland) Act 1972⁽¹⁰⁾;
- (b) granting planning permission, or upholding a decision of the planning authority to grant planning permission (whether or not subject to the same conditions and limitations as those imposed by the local planning authority), on determining an appeal under section 33 (appeals) of that Act in respect of such an application;
- (c) granting planning permission under—
- (i) section 172(2) of that Act (action by Secretary of State in relation to purchase notice),
- (ii) section 85(5)⁽¹¹⁾ of that Act (powers of Secretary of State on appeal against enforcement notice), or
- (iii) section 91(3)⁽¹²⁾ of that Act as originally enacted (powers of Secretary of State on reference or appeal as to established use certificate);
- (d) directing under section 37(1)⁽¹³⁾ (development with government authorisation) of that Act, or under ^{F4}... that planning permission shall be deemed to be granted;
- (e) making an order under section 49⁽¹⁴⁾ of that Act (order requiring discontinuance of use or removal of buildings or works), including an order made under that section by virtue of section 260 (default powers of Secretary of State), which grants planning permission, or confirming any such order;
- (f) directing under—
- (i) section 172(3) of that Act (powers of Secretary of State in relation to purchase notice), or
- (ii) paragraph 2(6) of Schedule 17 to that Act (powers of Secretary of State in relation to listed building purchase notice),

⁽⁸⁾ Paragraph 1 of Schedule 9 was amended by paragraph 15 of Schedule 1 to the Planning and Compensation Act 1991 (c. 34).

⁽⁹⁾ 1990 c. 9.

⁽¹⁰⁾ 1972 c. 52.

⁽¹¹⁾ Section 85(5) was amended by paragraph 20 of Schedule 13 to, and Part IV of Schedule 19 to the Planning and Compensation Act 1991 (c. 34).

⁽¹²⁾ Section 91(3) was repealed by paragraph 26(b) of Schedule 13 to the Planning and Compensation Act 1991 (c. 34), but that repeal does not apply to appeals arising out of applications made under section 90(2) (as originally enacted) before 25th September 1992.

⁽¹³⁾ Section 37(1) was amended by Part I of Schedule 4 to the Local Government and Planning (Scotland) Act 1982 (c. 43).

⁽¹⁴⁾ Section 49 was amended by section 172(2) of the Local Government (Scotland) Act 1973 (c. 65), sections 26 and 35 of the Town and Country Planning (Minerals) Act 1981 (c. 36) and paragraph 5 of Schedule 8, and paragraph 16 of Schedule 13, to the Planning and Compensation Act 1991 (c. 34).

that if an application is made for planning permission it shall be granted.

(3) Where regulations 48 and 49 apply, the competent authority may, if they consider that any adverse effects of the plan or project on the integrity of a European site [^{F5}or European offshore marine site] would be avoided if the planning permission were subject to conditions or limitations, grant planning permission or, as the case may be, take action which results in planning permission being granted or deemed to be granted subject to those conditions or limitations.

(4) Where regulations 48 and 49 apply, [^{F6}planning permission in principle] shall not be granted unless the competent authority are satisfied (whether by reason of the conditions and limitations to which the [^{F6}planning permission in principle] is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site [^{F7}or European offshore marine site] could be carried out under the permission, whether before or after obtaining [^{F8}any approval, consent or agreement required by a condition imposed on the grant of the permission].

[^{F9}In this paragraph “planning permission in principle” has the same meaning as in section 59 of the Town and Country Planning (Scotland) Act 1997].]

- F1** Regulations revoked (E.W.) (1.4.2010 except so far as relating to the revocation in relation to W. of reg. 36 and specified words in reg. 3(3), 12.12.2014 in so far as not already in force) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2)(4)(b), **133(3)** (with regs. 125, 134)
- F2** Words in reg. 54(1) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(29)(a)** (with reg. 9)
- F3** Words in reg. 54(2) substituted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(29)(b)** (with reg. 9)
- F4** Words in reg. 54(2)(d) revoked (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), regs. 1(2), **133(2)(b)** (with regs. 125, 134)
- F5** Words in reg. 54(3) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(29)(c)** (with reg. 9)
- F6** Words in reg. 54(4) substituted (S.) (3.8.2009) by [The Planning etc. \(Scotland\) Act 2006 \(Development Management and Appeals\) \(Saving, Transitional and Consequential Provisions\) Order 2009 \(S.S.I. 2009/222\)](#), arts. 1(1), **14(2)(a)**
- F7** Words in reg. 54(4) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(29)(d)** (with reg. 9)
- F8** Words in reg. 54(4) substituted (S.) (3.8.2009) by [The Planning etc. \(Scotland\) Act 2006 \(Development Management and Appeals\) \(Saving, Transitional and Consequential Provisions\) Order 2009 \(S.S.I. 2009/222\)](#), arts. 1(1), **14(2)(b)**
- F9** Words in reg. 54(4) substituted (S.) (3.8.2009) by [The Planning etc. \(Scotland\) Act 2006 \(Development Management and Appeals\) \(Saving, Transitional and Consequential Provisions\) Order 2009 \(S.S.I. 2009/222\)](#), arts. 1(1), **14(2)(c)**

Commencement Information

- I1** Reg. 54 in force at 30.10.1994, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, Section 54.