
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 6

ASSESSMENT OF PLANS AND PROJECTS

CHAPTER 1

GENERAL PROVISIONS

General provisions for protection of European sites and European offshore marine sites

Modifications of regulations 61 to 66 in certain cases

67.—(1) Where any provision of regulations 61 to 66 (a “general provision”) applies in relation to a provision specified in paragraph (2), that general provision applies with the following modifications—

- (a) any reference to the Welsh Ministers is omitted; and
- (b) for any reference to the appropriate authority, substitute a reference to the Secretary of State.

(2) The provisions specified for the purposes of paragraph (1) are—

- (a) paragraphs (1)(e)(i) and (2) of regulation 68 (grant of planning permission) in so far as those provisions relate to a direction given by the Secretary of State under section 90(1) of the TCPA 1990 (development with government authorisation) that planning permission is deemed to be granted; and
- (b) regulations 81 and 82 (development consent under Planning Act 2008(2)).

(3) Where a general provision applies in relation to a provision specified in paragraph (4), that general provision applies with the following modifications—

- (a) any reference to a competent authority is taken to include the Scottish Ministers;
- (b) for any reference to the Welsh Ministers, substitute a reference to the Scottish Ministers; and
- (c) for any reference to the appropriate authority—
 - (i) in a case where the competent authority for the purposes of a provision specified in paragraph (4) are the Scottish Ministers, substitute a reference to the Scottish Ministers, and
 - (ii) in any other case, substitute a reference to the Secretary of State.

(4) The provisions specified for the purposes of paragraph (3) are—

(1) Relevant amendments were made to section 90 by the Environment Act 1995 (c. 25), paragraph 32(4) of Schedule 10, and the Transport and Works Act 1992 (c. 42), section 16(1).
(2) 2008 c. 29.

- (a) in regulation 68—
 - (i) paragraph (1)(e)(ii) and (iii) (deemed grant of planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997⁽³⁾ and section 5(1) of the Pipe-lines Act 1962⁽⁴⁾), and
 - (ii) paragraph (2) in so far as that paragraph relates to paragraph (1)(e)(ii) and (iii) of that regulation;
 - (b) Chapter 4 (electricity); and
 - (c) Chapter 5 (pipe-lines).
- (5) Where a general provision applies in relation to regulation 100 (marine works), and confers a function on the appropriate authority, that provision applies with the following modifications—
- (a) in a case to which paragraph (6) applies, for any reference to the appropriate authority, substitute a reference to the Welsh Ministers; and
 - (b) in any other case, for any reference to the appropriate authority, substitute a reference to the Secretary of State.
- (6) This paragraph applies where the function in question is exercisable in relation to—
- (a) any application to the Welsh Ministers for an authorisation in respect of marine works;
 - (b) any application to any other authority for—
 - (i) an authorisation in respect of marine works, the refusal of which gives rise to a right of appeal to the Welsh Ministers,
 - (ii) an authorisation in respect of marine works in relation to which the Welsh Ministers exercise any power of direction or call-in,
 - (iii) an authorisation of a kind mentioned in regulation 100(6)(c)(iii) in respect of works which are to be carried out in relation to a fishery harbour in Wales; or
 - (c) the grant of any application of a kind mentioned in sub-paragraph (a) or (b).
- (7) In paragraph (6)—
- (a) “authorisation” means any licence, consent or other approval; and
 - (b) “marine works” has the same meaning as in regulation 100.

⁽³⁾ 1997 c. 8.

⁽⁴⁾ 1962 c. 58; section 5(1) was amended by S.I. 1999/742, paragraph 2(3) of the Schedule.