
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 6

ASSESSMENT OF PLANS AND PROJECTS

CHAPTER 2

PLANNING

Planning permission

Planning permission: duty to review

69.—(1) Subject to the following provisions of this regulation, the review provisions apply to any planning permission or deemed planning permission, unless—

- (a) the development to which it related has been completed;
- (b) it was granted subject to a condition as to the time within which the development to which it related was to be begun and that time has expired without the development having been begun; or
- (c) it was granted for a limited period and that period has expired.

(2) The review provisions do not apply to planning permission granted or deemed to have been granted—

- (a) by a development order (but see regulations 73 to 78);
 - (b) by virtue of the adoption of a simplified planning zone scheme or of alterations to such a scheme (but see regulation 79); or
 - (c) by virtue of the taking effect of an order designating an enterprise zone under paragraph 5 of Schedule 32 to the Local Government, Planning and Land Act 1980(1) (enterprise zones), or by virtue of the approval of a modified enterprise zone scheme (but see regulation 80).
- (3) Planning permission deemed to be granted by virtue of—
- (a) a direction under section 90(1) of the TCPA 1990 in respect of development for which an authorisation has been granted under section 1(2) of the Pipe-lines Act 1962 (pipe-line construction authorisations),
 - (b) a direction under section 5(1) of the Pipe-lines Act 1962,

(1) 1980 c. 65. Schedule 32 was amended by the New Towns Act 1981 (c. 64), paragraph 28 of Schedule 12; the Local Government (Wales) Act 1994 (c. 19), paragraph 59(9) of Schedule 16 and Schedule 18; and the Planning (Consequential Provisions) Act 1990 (c. 11), Part 1 of Schedule 1 and paragraph 44(14) of Schedule 2.

(2) Section 1 was amended by the Criminal Justice Act 1982 (c. 48), sections 37, 38 and 46; S.I. 1999/742, paragraph 2(2) of the Schedule; S.I. 2007/1519, paragraph 4(1) of the Schedule; and the Planning Act 2008 (c. 29), paragraphs 5 and 6 of Schedule 2.

- (c) a direction under section 90(1) of the TCPA 1990 in respect of development for which a consent has been granted under section 36 or 37 of the Electricity Act 1989(3) (consents required in relation to generating stations and overhead lines),
- (d) a direction under section 90(2) of the TCPA 1990 or section 57(2) of the Town and Country Planning (Scotland) Act 1997 (which relate to development for which a consent has been granted under section 36 or 37 of the Electricity Act 1989), or
- (e) a direction under section 90(2A) of the TCPA 1990 (which relates to development in pursuance of an order under section 1 or 3 of the Transport and Works Act 1992(4) (orders as to railways, tramways or inland waterways)),

must be reviewed in accordance with Chapter 4 (electricity), Chapter 5 (pipe-lines) or Chapter 6 (transport and works) (as the case may be) in conjunction with the review of the underlying authorisation, consent or order.

(4) In the case of planning permission deemed to have been granted in any other case by a direction under section 90(1) of the TCPA 1990, the local planning authority must—

- (a) identify any such permission which they consider falls to be reviewed under the review provisions, and
- (b) refer the matter to the government department or person which made the direction,

and the department or person must, if in agreement that the planning permission does fall to be so reviewed, review the direction in accordance with the review provisions.

(5) Except as otherwise expressly provided, the review provisions do not apply to planning permission granted or deemed to be granted by a public general Act of Parliament.

(6) Subject to paragraphs (3) and (4), where planning permission granted by the appropriate authority falls to be reviewed under the review provisions—

- (a) it must be reviewed by the local planning authority; and
- (b) the power conferred by section 97(5) of the TCPA 1990 (power to revoke or modify planning permission) is exercisable by that local planning authority as in relation to planning permission granted on an application under Part 3 of that Act (control over development).

(7) In a non-metropolitan county in England the function of reviewing any such planning permission is to be exercised by the district planning authority unless it relates to a county matter (within the meaning of paragraph 1 of Schedule 1(6) to the TCPA 1990), in which case it is exercisable by the county planning authority.

(3) 1989 c. 29. Section 36 was amended by the Energy Act 2004 (c. 20), section 93(1) and (3); the Planning Act 2008 (c. 29), paragraphs 31 and 32 of Schedule 2; the Marine and Coastal Access Act 2009 (c. 23), section 12(7)(a) and (8); and, in relation to Scotland, by S.I. 2006/1054, paragraph 1(1) and (2) of Schedule 1. Section 37 was amended by the Planning Act 2008, paragraphs 31 and 33 of Schedule 2.

(4) 1992 c. 42; sections 1 and 3 were amended by the Planning Act 2008 (c. 29), paragraphs 51, 52 and 53 of Schedule 2.

(5) Section 97 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 4 of Schedule 1 and Part 1 of Schedule 19.

(6) Paragraph 1 of Schedule 1 was amended by the Planning and Compensation Act 1991 (c. 34), paragraph 13 of Schedule 1 and Part 1 of Schedule 19.