

STATUTORY INSTRUMENTS

1994 No. 2716

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

PART IV

ADAPTATION OF PLANNING AND OTHER CONTROLS

Modifications etc. (not altering text)

- C1** Pt. 4 applied (with modifications) (E.W.) (7.6.2006) by [The Town and Country Planning \(Application of Subordinate Legislation to the Crown\) Order 2006 \(S.I. 2006/1282\)](#), arts. 1, 15

Introductory

Application of provisions of this Part **E+W**

- 47.—(1) The requirements of—
- (a) regulations 48 and 49 (requirement to consider effect on European sites [^{F1}in Great Britain and European offshore marine sites]), and
 - (b) regulations 50 and 51 (requirement to review certain existing decisions and consents, &c.),
- apply, subject to and in accordance with the provisions of regulations 54 to 85, in relation to the matters specified in those provisions.
- (2) Supplementary provision is made by—
- (a) regulation 52 (co-ordination where more than one competent authority involved), and
 - (b) regulation 53 (compensatory measures where plan or project is agreed to notwithstanding a negative assessment of the implications for a European site [^{F2}in Great Britain or European offshore marine site]).
- [^{F3}(3) Nothing in these Regulations requires an appropriate assessment of any plan or project to be carried out on or in any part of the waters or on or in any part of the seabed or subsoil comprising the offshore marine area, or on or in relation to an offshore marine installation.]

Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F1** Words in [reg. 47\(1\)\(a\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(22)(a)** (with [reg. 9](#))
- F2** Words in [reg. 47\(2\)\(b\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(22)(b)** (with [reg. 9](#))

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F3 Reg. 47(3) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(22)(c)** (with reg. 9)

Commencement Information

I1 Reg. 47 in force at 30.10.1994, see **reg. 1(2)**

Application of provisions of this Part **S**

47.—(1) The requirements of ... regulations 48 [^{F86}, 48A] and 49 (requirement to consider effect on European sites [^{F1}in Great Britain and European offshore marine sites]), and ... regulations 50 and 51 (requirement to review certain existing decisions and consents, [^{F87}&c.) apply—

[^{F88}(a)] subject to and in accordance with the provisions of regulations [^{F89}53A] to 85, in relation to the matters specified in those provisions [^{F90}, and

(b) in relation to all other plans and projects.]

(2) Supplementary provision is made by—

(a) regulation 52 (co-ordination where more than one competent authority involved), and

(b) regulation 53 (compensatory measures where plan or project is agreed to notwithstanding a negative assessment of the implications for a European site [^{F2}in Great Britain or European offshore marine site]).

[^{F3}(3) Nothing in these Regulations requires an appropriate assessment of any plan or project to be carried out on or in any part of the waters or on or in any part of the seabed or subsoil comprising the offshore marine area, or on or in relation to an offshore marine installation.]

[^{F91}(3A) This Part does not apply to any plan or project to which the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 apply.]

Textual Amendments

F1 Words in reg. 47(1)(a) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(22)(a)** (with reg. 9)

F2 Words in reg. 47(2)(b) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(22)(b)** (with reg. 9)

F3 Reg. 47(3) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(22)(c)** (with reg. 9)

F86 Word in reg. 47(1) inserted (29.6.2007) by The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2007 (S.S.I. 2007/349), regs. 1(1), **2(2)(b)**

F87 Words in reg. 47(1) substituted (29.6.2007) by The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2007 (S.S.I. 2007/349), regs. 1(1), **2(2)(d)**

F88 Word in reg. 47(1) inserted (29.6.2007) by The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2007 (S.S.I. 2007/349), regs. 1(1), **2(2)(e)**

F89 Word in reg. 47(1) substituted (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **16(a)** (with regs. 20, 21)

F90 Reg. 47(1)(b) and word inserted (29.6.2007) by The Conservation (Natural Habitats, &c.) Amendment (No. 2) (Scotland) Regulations 2007 (S.S.I. 2007/349), regs. 1(1), **2(2)(f)**

F91 Reg. 47(3A) inserted (23.11.2007) by The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (S.S.I. 2007/485), regs. 1(1), **24(1)** (with reg. 3)

General provisions for protection of European sites

Assessment of implications for European site **E+W**

48.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- (a) is likely to have a significant effect on a European site in Great Britain [^{F4}or a European offshore marine site] (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) A person applying for any such consent, permission or other authorisation shall provide such information as the competent authority may reasonably require for the purposes of the assessment [^{F5}or to enable them to determine whether an appropriate assessment is required].

(3) The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.

(4) They shall also, if they consider it appropriate, take the opinion of the general public; and if they do so, they shall take such steps for that purpose as they consider appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 49, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site [^{F6}or European offshore marine site (as the case may be)].

(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority shall have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.

[^{F7}(7) This regulation does not apply in relation to a site which is—

- (a) a European site by reason of regulation 10(1)(c); or
- (b) a European offshore marine site by reason of regulation 15(c) of the 2007 Regulations.]

[^{F8}(8) Where a plan or project requires an appropriate assessment both under this regulation and under the 2007 Regulations, the assessment required by this regulation need not identify those effects of the plan or project that are specifically attributable to that part of it that is to be carried out in Great Britain, provided that an assessment made for the purpose of this regulation and the 2007 Regulations assesses the effects of the plan or project as a whole.]

Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F4** Words in reg. 48(1)(a) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(23)(a)** (with reg. 9)
- F5** Words in reg. 48(2) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(23)(b)** (with reg. 9)
- F6** Words in reg. 48(5) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(23)(c)** (with reg. 9)

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

- F7** Reg. 48(7) substituted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(23)(d)** (with reg. 9)
- F8** Reg. 48(8) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(23)(e)** (with reg. 9)

Commencement Information

- I2** Reg. 48 in force at 30.10.1994, see **reg. 1(2)**

Assessment of implications for European site **S**

48.—(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- (a) is likely to have a significant effect on a European site in Great Britain [^{F4}or a European offshore marine site] (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) A person applying for any such consent, permission or other authorisation shall provide such information as the competent authority may reasonably require for the purposes of the assessment [^{F92}or to enable the competent authority to determine whether an appropriate assessment is required].

(3) The competent authority shall for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority may specify.

(4) They shall also, if they consider it appropriate, take the opinion of the general public; and if they do so, they shall take such steps for that purpose as they consider appropriate.

(5) In the light of the conclusions of the assessment, and subject to regulation 49, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site [^{F6}or European offshore marine site (as the case may be)].

(6) In considering whether a plan or project will adversely affect the integrity of the site, the authority shall have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.

[^{F7}(7) This regulation does not apply in relation to a site which is—

- (a) a European site by reason of regulation 10(1)(c); or
- (b) a European offshore marine site by reason of regulation 15(c) of the 2007 Regulations.]

Textual Amendments

- F4** Words in reg. 48(1)(a) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(23)(a)** (with reg. 9)
- F6** Words in reg. 48(5) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(23)(c)** (with reg. 9)
- F7** Reg. 48(7) substituted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(23)(d)** (with reg. 9)
- F92** Words in reg. 48(2) inserted (S.) (15.2.2007) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2007 (S.S.I. 2007/80), regs. 2, **18**

[F9] **Directions as regards plans and projects**

48A.—(1) The Scottish Ministers may at any time direct a competent authority (other than the Scottish Ministers or the Secretary of State) to send to them a copy of a plan or project—

- (a) which is being prepared by the competent authority, or which is to be or has been undertaken by the competent authority; or
- (b) which is to be or has been consented to, permitted or otherwise authorised by the competent authority,

and which in the opinion of the Scottish Ministers may have a significant effect on a European site in Great Britain.

(2) The Scottish Ministers shall consider any plan or project in respect of which they have issued a direction under paragraph (1), together with such information in relation to it as they may reasonably require the competent authority to provide.

(3) Where the Scottish Ministers are satisfied that—

- (a) the plan or project falls within regulation 48(1) and no appropriate assessment has been carried out; or
- (b) an appropriate assessment has been carried out which does not comply with the Habitats Directive and these Regulations,

they may direct the competent authority to carry out an appropriate assessment in accordance with the Habitats Directive and these Regulations.

(4) A direction under paragraph (3) shall be issued as soon as reasonably practicable, and may, in particular, specify—

- (a) the manner in which an appropriate assessment must be carried out; and
- (b) the matters to be covered by the appropriate assessment.

(5) Where a direction is issued under paragraph (3), the plan or project and any operation or activity carried out under it is suspended until such time as the Scottish Ministers direct that they are satisfied that an appropriate assessment has been carried out in accordance with the Habitats Directive and these Regulations.

(6) The Scottish Ministers shall issue a direction under paragraph (5) as soon as reasonably practicable after they are satisfied that an appropriate assessment has been carried out in accordance with the Habitats Directive and these Regulations.

(7) The Scottish Ministers shall consult with the appropriate nature conservation body as to the exercise of the Scottish Ministers' functions under paragraphs (1) to (6) of this regulation.

(8) Where a direction is issued under paragraph (3), the Scottish Ministers shall send to the competent authority a summary in writing of their reasons.

(9) A competent authority shall comply with any direction given to it under paragraph (1) or (3).]

Textual Amendments

F9 Reg. 48A inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), regs. 1(1), **2(3)**

Considerations of overriding public interest **E+W**

49.—(1) If they are satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2),

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may be of a social or economic nature), the competent authority may agree to the plan or project notwithstanding a negative assessment of the implications for the site.

(2) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (1) must be either—

(a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or

[^{F10}(b) any other reasons which the competent authority, having due regard to the opinion of the European Commission, considers to be imperative reasons of overriding public interest]

(3) Where a competent authority other than the Secretary of State desire to obtain the opinion of the European Commission as to whether reasons are to be considered imperative reasons of overriding public interest, they shall submit a written request to the Secretary of State—

(a) identifying the matter on which an opinion is sought, and

(b) accompanied by any documents or information which may be required.

(4) The Secretary of State may thereupon, if he thinks fit, seek the opinion of the Commission; and if he does so, he shall upon receiving the Commission's opinion transmit it to the authority.

(5) Where an authority other than the Secretary of State propose to agree to a plan or project under this regulation notwithstanding a negative assessment of the implications for [^{F11}the site concerned], they shall notify the Secretary of State.

Having notified the Secretary of State, they shall not agree to the plan or project before the end of the period of 21 days beginning with the day notified to them by the Secretary of State as that on which their notification was received by him, unless the Secretary of State notifies them that they may do so.

(6) In any such case the Secretary of State may give directions to the authority prohibiting them from agreeing to the plan or project, either indefinitely or during such period as may be specified in the direction.

This power is without prejudice to any other power of the Secretary of State in relation to the decision in question.

Textual Amendments

F10 Reg. 49(2)(b) substituted (E.W.) (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(24)(a)** (with reg. 9)

F11 Words in reg. 49(5) substituted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(24)(b)** (with reg. 9)

Commencement Information

I3 Reg. 49 in force at 30.10.1994, see **reg. 1(2)**

Considerations of overriding public interest **S**

49.—(1) If they are satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph (2), may be of a social or economic nature), the competent authority may agree [^{F93}, subject to paragraph (1A),] to the plan or project notwithstanding a negative assessment of the implications for the site.

[^{F94}(1A) A competent authority other than the Scottish Ministers or the Secretary of State shall consult the Scottish Ministers for the purpose of satisfying itself under paragraph (1), and shall have regard to the opinion of the Scottish Ministers.]

(2) Where the site concerned hosts a priority natural habitat type or a priority species, the reasons referred to in paragraph (1) must be either—

- (a) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment, or
- [^{F95}(b) any other imperative reasons of overriding public interest, provided that the competent authority has had regard to the opinion of the European Commission in satisfying itself that there are such reasons.]

(3) Where a competent authority other than the Secretary of State desire to obtain the opinion of the European Commission as to whether reasons are to be considered imperative reasons of overriding public interest, they shall submit a written request to the Secretary of State—

- (a) identifying the matter on which an opinion is sought, and
- (b) accompanied by any documents or information which may be required.

(4) The Secretary of State may thereupon, if he thinks fit, seek the opinion of the Commission; and if he does so, he shall upon receiving the Commission's opinion transmit it to the authority.

(5) Where an authority other than the Secretary of State propose to agree to a plan or project under this regulation notwithstanding a negative assessment of the implications for [^{F11}the site concerned], they shall notify the Secretary of State.

Having notified the Secretary of State, they shall not agree to the plan or project before the end of the period of 21 days beginning with the day notified to them by the Secretary of State as that on which their notification was received by him, unless the Secretary of State notifies them that they may do so.

(6) In any such case the Secretary of State may give directions to the authority prohibiting them from agreeing to the plan or project, either indefinitely or during such period as may be specified in the direction.

This power is without prejudice to any other power of the Secretary of State in relation to the decision in question.

[^{F96}(7) A competent authority shall comply with any direction given to it under paragraph (6).]

Textual Amendments

- F11** Words in reg. 49(5) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(24)(b)** (with reg. 9)
- F93** Words in reg. 49(1) inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), regs. 1(1), **2(4)(a)**
- F94** Reg. 49(1A) inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), regs. 1(1), **2(4)(b)**
- F95** Reg. 49(2)(b) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **19**
- F96** Reg. 49(7) inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), regs. 1(1), **2(4)(c)**

Review of existing decisions and consents, &c.

50.—(1) Where before the date on which a site becomes a European site [^{F12}or a European offshore marine site] or, if later, the commencement of these Regulations, a competent authority have decided to undertake, or have given any consent, permission or other authorisation for, a plan or project to which regulation 48(1) would apply if it were to be reconsidered as of that date, the

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authority shall as soon as reasonably practicable, review their decision or, as the case may be, the consent, permission or other authorisation, and shall affirm, modify or revoke it.

(2) They shall for that purpose make an appropriate assessment of the implications for the site in view of that site's conservation objectives; and the provisions of regulation 48(2) to (4) [^{F13}and regulation 48A] shall apply, with the appropriate modifications, in relation to such a review.

(3) Subject to the following provisions of this Part, any review required by this regulation shall be carried out under existing statutory procedures where such procedures exist, and if none exist the Secretary of State may give directions as to the procedure to be followed.

(4) Nothing in this regulation shall affect anything done in pursuance of the decision, or the consent, permission or other authorisation, before the date mentioned in paragraph (1).

Textual Amendments

F12 Words in [reg. 50\(1\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), **5(25)** (with [reg. 9](#))

F13 Words in [reg. 50\(2\)](#) inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), [regs. 1\(1\)](#), **2(5)**

Commencement Information

I4 [Reg. 50](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Consideration on review

51.—(1) The following provisions apply where a decision, or a consent, permission or other authorisation, falls to be reviewed under regulation 50.

(2) Subject as follows, the provisions of regulation 48(5) and (6) and regulation 49 shall apply, with the appropriate modifications, in relation to the decision on the review.

(3) The decision, or the consent, permission or other authorisation, may be affirmed if it appears to the authority reviewing it that other action taken or to be taken by them, or by another authority, will secure that the plan or project does not adversely affect the integrity of the site.

Where that object may be attained in a number of ways, the authority or authorities concerned shall seek to secure that the action taken is the least onerous to those affected.

(4) The Secretary of State may issue guidance to authorities for the purposes of paragraph (3) as to the manner of determining which of different ways should be adopted for securing that the plan or project does not have any such effect, and in particular—

(a) the order of application of different controls, and

(b) the extent to which account should be taken of the possible exercise of other powers;

and the authorities concerned shall have regard to any guidance so issued in discharging their functions under that paragraph.

(5) Any modification or revocation effected in pursuance of this regulation shall be carried out under existing statutory procedures where such procedures exist.

If none exist, the Secretary of State may give directions as to the procedure to be followed.

Commencement Information

I5 [Reg. 51](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Co-ordination where more than one competent authority involved

52.—(1) The following provisions apply where a plan or project—

- (a) is undertaken by more than one competent authority,
- (b) requires the consent, permission or other authorisation of more than one competent authority, or
- (c) is undertaken by one or more competent authorities and requires the consent, permission or other authorisation of one or more other competent authorities.

(2) [^{F14}Subject to regulation 48A,] Nothing in regulation 48(1) or 50(2) requires a competent authority to assess any implications of a plan or project which would be more appropriately assessed under that provision by another competent authority.

(3) The Secretary of State may issue guidance to authorities for the purposes of regulations 48 to 51 as to the circumstances in which an authority may or should adopt the reasoning or conclusions of another competent authority as to whether a plan or project—

- (a) is likely to have a significant effect on a European site [^{F15}or a European offshore marine site], or
- (b) will adversely affect the integrity of a European site [^{F15}or a European offshore marine site];

and the authorities involved shall have regard to any guidance so issued in discharging their functions under those regulations.

(4) In determining whether a plan or project should be agreed to under regulation 49(1) (considerations of overriding public interest) a competent authority other than the Secretary of State shall seek and have regard to the views of the other competent authority or authorities involved.

Textual Amendments

F14 Words in [reg. 52\(2\)](#) inserted (S.) (29.6.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(No. 2\) \(Scotland\) Regulations 2007 \(S.S.I. 2007/349\)](#), regs. 1(1), **2(6)**

F15 Words in [reg. 52\(3\)\(a\)\(b\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(26)** (with reg. 9)

Commencement Information

I6 Reg. 52 in force at 30.10.1994, see [reg. 1\(2\)](#)

Compensatory measures

53. Where in accordance with regulation 49 (considerations of overriding public interest)—

- (a) a plan or project is agreed to, notwithstanding a negative assessment of the implications for a European site [^{F16}or European offshore marine site], or
- (b) a decision, or a consent, permission or other authorisation, is affirmed on review, notwithstanding such an assessment,

the Secretary of State shall secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected.

Textual Amendments

F16 Words in [reg. 53](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(27)** (with reg. 9)

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Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

Commencement Information

I7 Reg. 53 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F17}Control of operations requiring consent

53A.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F18}European sites in Great Britain and European offshore marine sites]) apply in relation to the granting of any consent under—

- (a) section 13(4) of the 2004 Act to permit a public body to carry out an operation; or
- (b) section 16(3) of the 2004 Act to permit an owner or occupier of land within a site of special scientific interest to carry out an operation requiring consent on the land.

(2) Where in such a case SNH considers that any adverse effects of the plan or project on the integrity of a European site [^{F19}or European offshore marine site] would be avoided if the consent were subject to conditions, it may grant consent subject to those conditions.

(3) Where, in any case, whether in pursuance of sections 13(4) or 16(3) of the 2004 Act or otherwise, in light of the conclusions of an appropriate assessment made under regulation 48(1), SNH has not given consent for an operation, but it considers that there is a risk that the operation may nevertheless be carried out, it shall notify Scottish Ministers.]

Textual Amendments

- F17** Reg. 53A inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **16(b)** (with regs. 20, 21)
- F18** Words in [reg. 53A\(1\)](#) substituted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(28)(a)** (with reg. 9)
- F19** Words in [reg. 53A\(2\)](#) inserted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(28)(b)** (with reg. 9)

Planning

Grant of planning permission

54.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F20}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

(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).

- (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
 - (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 [^{F21}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);

(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).

(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.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

- (d) directing under section 37(1)(13) (development with government authorisation) of that Act, or under section 5(1) of the Pipe-lines Act 1962 or paragraph 7 of Schedule 8 to the Electricity Act 1989(14), that planning permission shall be deemed to be granted;
- (e) making an order under section 49(15) 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),
 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 [F22 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, [F23 outline planning permission][F23 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 [F23 outline planning permission][F23 planning permission in principle] is to be made subject, or otherwise) that no development likely adversely to affect the integrity of a European site [F24 or European offshore marine site] could be carried out under the permission, whether before or after obtaining [F25 approval of any reserved matters][F25 any approval, consent or agreement required by a condition imposed on the grant of the permission].

[F26 In this paragraph “outline planning permission” and “reserved matters” have the same meaning as in section 92 of the Town and Country Planning Act 1990 or section 39 of the Town and Country Planning (Scotland) Act 1972.] [F26 In this paragraph “planning permission in principle” has the same meaning as in section 59 of the Town and Country Planning (Scotland) Act 1997].

Textual Amendments

- F20** 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)
- F21** 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)
- F22** 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)
- F23** 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)**
- F24** 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)

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

(14) 1989 c. 29; paragraph 7 is repealed insofar as it extends to England and Wales by Part II of Schedule 1 to the Planning (Consequential Provisions) Act 1990 (c. 11).

(15) 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).

- F25** 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)**
- F26** 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

- 18** Reg. 54 in force at 30.10.1994, see reg. **1(2)**

Planning permission: duty to review

55.—(1) Subject to the following provisions of this regulation, regulations 50 and 51 (requirement to review certain decisions and consents, &c.) apply to any planning permission or deemed planning permission, unless—

- (a) the development to which it related has been completed, or
- (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) Regulations 50 and 51 do not apply to planning permission granted or deemed to have been granted—

- (a) by a development order (but see regulations 60 to 64 below);
- (b) by virtue of the adoption of a simplified planning zone scheme or of alterations to such a scheme (but see regulation 65 below);
- (c) by virtue of the taking effect of an order designating an enterprise zone under Schedule 32 to the Local Government, Planning and Land Act 1980(**16**), or by virtue of the approval of a modified enterprise zone scheme (but see regulation 66 below).

(3) Planning permission deemed to be granted by virtue of—

- (a) a direction under section 90(1) of the Town and Country Planning Act 1990 or section 37(1) of the Town and Country Planning (Scotland) Act 1972 in respect of development for which an authorisation has been granted under section 1 or 3 of the Pipe-lines Act 1962(**17**),
- (b) a direction under section 5(1) of the Pipe-lines Act 1962,
- (c) a direction under section 90(1) of the Town and Country Planning Act 1990 or section 37(1) of the Town and Country Planning (Scotland) Act 1972 in respect of development for which a consent has been given under section 36 or 37 of the Electricity Act 1989,
- (d) a direction under section 90(2) of the Town and Country Planning Act 1990 or paragraph 7 of Schedule 8 to the Electricity Act 1989, or
- (e) a direction under section 90(2A) of the Town and Country Planning Act 1990 (which relates to development in pursuance of an order under section 1 or 3 of the Transport and Works Act 1992(**18**)),

(16) 1980 c. 65.

(17) 1962 c. 58.

(18) 1992 c. 42.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

shall be reviewed in accordance with the following provisions of this Part 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 Town and Country Planning Act 1990 or section 37(1) of the Town and Country Planning (Scotland) Act 1972, the local planning authority shall—

- (a) identify any such permission which they consider falls to be reviewed under regulations 50 and 51, and
- (b) refer the matter to the government department which made the direction;

and the department shall, if it agrees that the planning permission does fall to be so reviewed, thereupon review the direction in accordance with those regulations.

(5) Save as otherwise expressly provided, regulations 50 and 51 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 Secretary of State falls to be reviewed under regulations 50 and 51—

- (a) it shall be reviewed by the local planning authority, and
- (b) the power conferred by section 97 of the Town and Country Planning Act 1990 or section 42 of the Town and Country Planning (Scotland) Act 1972 (revocation or modification of planning permission) shall be exercisable by that authority as in relation to planning permission granted on an application under Part III of that Act.

In a non-metropolitan county in England ^{F27}... the function of reviewing any such planning permission shall be exercised by the district planning authority unless it relates to a county matter (within the meaning of Schedule 1 to the Town and Country Planning Act 1990) in which case it shall be exercised by the county planning authority.

Textual Amendments

F27 Words in [reg. 55\(6\)](#) omitted (E.W.) (1.4.1996) by virtue of [The Local Government Reorganisation \(Wales\) \(Consequential Amendments\) Order 1996 \(S.I. 1996/525\)](#), arts. 1, 3, [Sch. para. 18\(4\)](#)

Commencement Information

I9 Reg. 55 in force at 30.10.1994, see [reg. 1\(2\)](#)

Planning permission: consideration on review

56.—(1) In reviewing any planning permission or deemed planning permission in pursuance of regulations 50 and 51, the competent authority shall, in England and Wales—

- (a) consider whether any adverse effects could be overcome by planning obligations under section 106(19) of the Town and Country Planning Act 1990 being entered into, and
- (b) if they consider that those effects could be so overcome, invite those concerned to enter into such obligations;

and so far as the adverse effects are not thus overcome the authority shall make such order under section 97 of that Act (power to revoke or modify planning permission), or under section 102 of or paragraph 1 of Schedule 9 to that Act (order requiring discontinuance of use, &c.), as may be required.

(2) In reviewing any planning permission or deemed planning permission in pursuance of regulations 50 and 51, the competent authority shall, in Scotland—

(19) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991 (c. 34).

- (a) consider whether any adverse effects could be overcome by an agreement under section 50 (agreements regulating development or use of land) of the Town and Country Planning (Scotland) Act 1972 being entered into, and
- (b) if they consider that those effects could be so overcome, invite those concerned to enter into such an agreement;

and so far as the adverse effects are not thus overcome, the authority shall make such order under section 42 of that Act⁽²⁰⁾ (power to revoke or modify planning permission), or under section 49 of that Act⁽²¹⁾ (orders requiring discontinuance of use, &c.) as may be required.

(3) Where the authority ascertain that the carrying out or, as the case may be, the continuation of the development would adversely affect the integrity of a European site [^{F28}or European offshore marine site], they nevertheless need not proceed under regulations 50 and 51 if and so long as they consider that there is no likelihood of the development being carried out or continued.

Textual Amendments

F28 Words in [reg. 56\(3\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\), 5\(30\)](#) (with [reg. 9](#))

Commencement Information

I10 [Reg. 56](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Effect of orders made on review: England and Wales

57.—(1) An order under section 97 of the Town and Country Planning Act 1990⁽²²⁾ (power to revoke or modify planning permission) made pursuant to regulation 55 shall take effect upon service of the notices required by section 98(2) of that Act or, where there is more than one such notice and those notices are served at different times, upon the service of the last such notice to be served.

(2) Where the Secretary of State determines not to confirm such an order, the order shall cease to have effect from the time of that determination, and the permission revoked or modified by the order shall thereafter have effect as if the order had never been made, and—

- (a) any period specified in the permission for the taking of any action, being a period which had not expired prior to the date upon which the order took effect under paragraph (1) above, shall be extended by a period equal to that during which the order had effect; and
- (b) there shall be substituted for any date specified in the permission as being a date by which any action should be taken, not being a date falling prior to the date upon which the order took effect under paragraph (1) above, such date as post-dates the specified date by a period equal to that during which the order had effect.

(3) An order under section 102 of, or under paragraph 1 of Schedule 9 to, the Town and Country Planning Act 1990 (order requiring discontinuance of use, &c.) made pursuant to regulation 55 shall insofar as it requires the discontinuance of a use of land or imposes conditions upon the continuance of a use of land, take effect upon service of the notices required by section 103(3) or, where there is more than one such notice and those notices are served at different times, upon service of the last such notice to be served.

⁽²⁰⁾ Section 42 was amended by section 172(2) of the Local Government (Scotland) Act 1973 (c. 65) and sections 26 and 35 of the Town and Country Planning (Minerals) Act 1981 (c. 36).

⁽²¹⁾ 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).

⁽²²⁾ 1990 c. 8.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

(4) Where the Secretary of State determines not to confirm any such order, the order shall cease to have effect from the time of that determination and the use which by the order was discontinued or upon whose continuance conditions were imposed—

- (a) may thereafter be continued as if the order had never been made, and
- (b) shall be treated for the purposes of the Town and Country Planning Act 1990 as if it had continued without interruption or modification throughout the period during which the order had effect.

(5) An order under section 97 of that Act (power to revoke or modify planning permission) made in pursuance of regulation 55 shall not affect so much of the development authorised by the permission as was carried out prior to the order taking effect.

(6) An order under section 102 of, or under paragraph 1 of Schedule 9 to, that Act (order requiring discontinuance of use, &c.) made in pursuance of regulation 55 shall not affect anything done prior to the site becoming a European site [^{F29}or European offshore marine site] or, if later, the commencement of these Regulations.

Textual Amendments

F29 Words in [reg. 57\(6\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\), 5\(31\)](#) (with [reg. 9](#))

Commencement Information

I11 [Reg. 57](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Effect of orders made on review: Scotland

58.—(1) An order under section 42 of the Town and Country Planning (Scotland) Act 1972 (power to revoke or modify planning permission) made pursuant to regulation 55 shall take effect upon service of the notices required by subsection (3) of that section or, where there is more than one such notice and those notices are served at different times, upon the service of the last such notice to be served.

(2) Where the Secretary of State determines not to confirm such an order, the order shall cease to have effect from the time of that determination, and the permission revoked or modified by the order shall thereafter have effect as if the order had never been made, and—

- (a) any period specified in the permission for the taking of any action, being a period which had not expired prior to the date upon which the order took effect under paragraph (1) above, shall be extended by a period equal to that during which the order had effect; and
- (b) there shall be substituted for any date specified in the permission as being a date by which any action should be taken, not being a date falling prior to that date upon which the order took effect under paragraph (1) above, such date as post-dates the specified date by a period equal to that during which the order had effect.

(3) An order under section 49 of the Town and Country Planning (Scotland) Act 1972 (order requiring discontinuance of use, &c.) made pursuant to regulation 55 shall, insofar as it requires the discontinuance of a use of land or imposes conditions upon the continuance of a use of land, take effect upon service of the notices required by subsection (5) of that section or, where there is more than one such notice and those notices are served at different times, upon service of the last such notice to be served.

(4) Where the Secretary of State determines not to confirm any such order, the order shall cease to have effect from the time of that determination and the use which by the order was discontinued or upon whose continuance conditions were imposed—

- (a) may thereafter be continued as if the order had never been made, and
- (b) shall be treated for the purposes of the Town and Country Planning (Scotland) Act 1972 as if it had continued without interruption throughout the period during which the order had effect.

(5) An order under section 42 of that Act (power to modify or revoke planning permission) made in pursuance of regulation 55 shall not affect so much of the development authorised by the permission as was carried out prior to the site becoming a European site or, if later, the commencement of these Regulations.

(6) An order under section 49 of that Act (order requiring discontinuance of use, &c.) made in pursuance of regulation 55 above shall not affect any use made of the land prior to the site becoming a European site [^{F30}or European offshore marine site] or, if later, the commencement of these Regulations.

Textual Amendments

F30 Words in reg. 58(6) inserted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), 5(32) (with reg. 9)

Commencement Information

I12 Reg. 58 in force at 30.10.1994, see [reg. 1\(2\)](#)

Planning permission: supplementary provisions as to compensation

59. –

- (1) Where the Secretary of State determines not to confirm–
 - (a) an order under section 97 of the Town and Country Planning Act 1990 (revocation or modification of planning permission) which has taken effect under regulation 57(1), or
 - (b) an order under section 42 of the Town and Country Planning (Scotland) Act 1972 (revocation or modification of planning permission) which has taken effect under regulation 58(1),

and claim for compensation under section 107 of the Act of 1990 or section 153 of the Act of 1972 shall be limited to any loss or damage directly attributable to the permission being suspended or temporarily modified for the duration of the period between the order so taking effect and the Secretary of State determining not to confirm the order.

- (2) Where the Secretary of State determines not to confirm–
 - (a) an order under section 102 of the Town and Country Planning Act 1990 (order requiring discontinuance of use, &c.) which has taken effect under regulation 57(3) above, or
 - (b) an order under section 49 of the Town and Country Planning (Scotland) Act 1972 (order requiring discontinuance of use, &c.) which has taken effect under regulation 58(3) above,

any claim for compensation under section 115 of the Act of 1990 or section 159 of the Act of 1972 shall be limited to any loss or damage directly attributable to any right to continue a use of the land being, by virtue of the order, suspended or subject to conditions for the duration of the period between the order so taking effect and the Secretary of State determining not to confirm the order.

- (3) Where compensation is payable in respect of–
 - (a) an order under section 97 of the Town and Country Planning Act 1990, or
 - (b) any order mentioned in section 115(1) of that Act (compensation in respect of orders under s.102, &c.), or to which that section applies by virtue of section 115(5),

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

and the order has been made pursuant to regulation 50, the question as to the amount of the compensation shall be referred, by the authority liable to pay the compensation, to and be determined by the [^{F31}Upper 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.

(4) Where compensation is payable in respect of—

- (a) an order under section 42 of the Town and Country Planning (Scotland) Act 1972 (revocation or modification of planning permission), or
- (b) any order mentioned in section 153(1) of that Act (compensation in respect of orders under s.49),

and the order has been made pursuant to regulation 50, the question as to the amount of the compensation shall be referred, by the authority liable to pay the compensation, to and be determined by 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.

Textual Amendments

F31 Words in [reg. 59\(3\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 2 para. 47** (with [Sch. 5](#))

Commencement Information

I13 [Reg. 59](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

General development orders

60.—(1) It shall be a condition of any planning permission granted by a general development order, whether made before or after the commencement of these Regulations, that development which—

- (a) is likely to have a significant effect on a European site in Great Britain [^{F32}or a European offshore marine site] (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

shall not be begun until the developer has received written notification of the approval of the local planning authority under regulation 62.

(2) It shall be a condition of any planning permission granted by a general development order made before the commencement of these Regulations that development which—

- (a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

and which was begun but not completed before the commencement of these Regulations, shall not be continued until the developer has received written notification of the approval of the local planning authority under regulation 62.

(3) Nothing in this regulation shall affect anything done before the commencement of these Regulations.

Textual Amendments

F32 Words in [reg. 60\(1\)\(a\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(33)** (with [reg. 9](#))

Modifications etc. (not altering text)

- C2** Reg. 60 excluded (31.10.2002) by [The Felixstowe Dock and Railway Harbour Revision Order 2002 \(S.I. 2002/2618\)](#), arts. 1, **17**
- C3** Reg. 60 excluded (30.8.2004) by [The Associated British Ports \(Immingham Outer Harbour\) Harbour Revision Order 2004 \(S.I. 2004/2190\)](#), arts. 1, **18** (with art. 20)
- C4** Reg. 60 excluded (12.10.2006) by [The Humber Sea Terminal \(Phase III\) Harbour Revision Order 2006 \(S.I. 2006/2604\)](#), arts. 1(1), **19(1)** (with art. 19(2))

Commencement Information

- I14** Reg. 60 in force at 30.10.1994, see [reg. 1\(2\)](#)

General development orders: opinion of appropriate nature conservation body

61.—(1) Where it is intended to carry out development in reliance on the permission granted by a general development order, application may be made in writing to the appropriate nature conservation body for their opinion whether the development is likely to have such an effect as is mentioned in regulation 60(1)(a) or (2)(a).

The application shall give details of the development which is intended to be carried out.

(2) On receiving such an application, the appropriate nature conservation body shall consider whether the development is likely to have such an effect.

(3) Where they consider that they have sufficient information to conclude that the development will, or will not, have such an effect, they shall in writing notify the applicant and the local planning authority of their opinion.

(4) If they consider that they have insufficient information to reach either of those conclusions, they shall notify the applicant in writing indicating in what respects they consider the information insufficient; and the applicant may supply further information with a view to enabling them to reach a decision on the application.

(5) The opinion of the appropriate nature conservation body, notified in accordance with paragraph (3), that the development is not likely to have such an effect as is mentioned in regulation 60(1)(a) or (2)(a) shall be conclusive of that question for the purpose of reliance on the planning permission granted by a general development order.

Commencement Information

- I15** Reg. 61 in force at 30.10.1994, see [reg. 1\(2\)](#)

General development orders: approval of local planning authority

62.—(1) Where it is intended to carry out development in reliance upon the permission granted by a general development order, application may be made in writing to the local planning authority for their approval.

(2) The application shall—

(a) give details of the development which is intended to be carried out; and

(b) be accompanied by—

(i) a copy of any relevant notification by the appropriate nature conservation body under regulation 61, and

(ii) any fee required to be paid.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

(3) For the purposes of their consideration of the application the local planning authority shall assume that the development is likely to have such an effect as is mentioned in regulation 60(1)(a) or (2)(a).

(4) The authority shall send a copy of the application to the appropriate nature conservation body and shall take account of any representations made by them.

(5) If in their representations the appropriate nature conservation body state their opinion that the development is not likely to have such an effect as is mentioned in regulation 60(1)(a) or (2)(a), the local planning authority shall send a copy of the representations to the applicant; and the sending of that copy shall have the same effect as a notification by the appropriate nature conservation body of its opinion under regulation 61(3).

(6) In any other case [^{F33}in which the application has been sent to the appropriate nature conservation body,] the local planning authority shall, taking account of any representations made by the appropriate nature conservation body, make an appropriate assessment of the implications of the development for the European site [^{F34}or European offshore marine site] in view of that site's conservation objectives.

In the light of the conclusions of the assessment the authority shall approve the development only after having ascertained that it will not adversely affect the integrity of the site.

Textual Amendments

- F33** Words in reg. 62(6) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(34)(a)** (with reg. 9)
- F34** Words in reg. 62(6) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(34)(b)** (with reg. 9)

Commencement Information

- I16** Reg. 62 in force at 30.10.1994, see [reg. 1\(2\)](#)

General development orders: supplementary

63.—(1) The local planning authority for the purposes of regulations 60 to 62 shall be the authority to whom an application for approval under regulation 62 would fall to be made if it were an application for planning permission.

- (2) The fee payable in connection with an application for such approval is—
- £25 in the case of applications made before 3rd January 1995, and
 - £30 in the case of applications made on or after that date.
- (3) Approval required by regulation 60 shall be treated—
- for the purposes of the provisions of the Town and Country Planning Act 1990(**23**), or the Town and Country Planning (Scotland) Act 1972(**24**), relating to appeals, as approval required by a condition imposed on a grant of planning permission; and
 - for the purposes of the provisions of any general development order relating to the time within which notice of a decision should be made, as approval required by a condition attached to a grant of planning permission.

(23) 1990 c. 8.

(24) 1972 c. 52.

Commencement Information

I17 Reg. 63 in force at 30.10.1994, see [reg. 1\(2\)](#)

Special development orders

64.—(1) A special development order made after the commencement of these Regulations may not grant planning permission for development which—

- (a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site;

and any such order made before the commencement of these Regulations shall, on and after that date, cease to have effect to grant such permission, whether or not the development authorised by the permission has been begun.

(2) Nothing in [^{F35}paragraph (1)] shall affect anything done before the commencement of these Regulations.

[^{F36}(3) A special development order made on or after 21st August 2007 may not grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).]

Textual Amendments

F35 Words in [reg. 64\(2\)](#) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(35\)\(a\)](#) (with [reg. 9](#))

F36 [Reg. 64\(3\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(35\)\(b\)](#) (with [reg. 9](#))

Commencement Information

I18 Reg. 64 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F37}Local development orders

64A. A local development order made on or after 21st August 2007 may not grant planning permission for development which—

- (a) is likely to have a significant effect on a European site in Great Britain or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site.]

Textual Amendments

F37 [Reg. 64A](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(36\)](#) (with [reg. 9](#))

Simplified planning zones

65. The adoption or approval of a simplified planning zone scheme after the commencement of these Regulations shall not have effect to grant planning permission for development which—

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

- (a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site;

and every simplified planning zone scheme already in force shall cease to have effect to grant such permission, whether or not the development authorised by the permission has been begun.

Commencement Information

I19 Reg. 65 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F38} Simplified planning zones and European offshore marine sites

65A. The adoption or approval of a simplified planning zone scheme on or after 21st August 2007 shall not have effect to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).]

Textual Amendments

F38 Reg. 65A inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(37)** (with reg. 9)

Enterprise zones

66. An order designating an enterprise zone, or the approval of a modified scheme, if made or given after the commencement of these Regulations, shall not have effect to grant planning permission for development which—

- (a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site;

and where the order or approval was made or given before that date, the permission granted by virtue of the taking effect of the order or the modifications shall, from that date, cease to have effect to grant planning permission for such development, whether or not the development authorised by the permission has been begun.

Commencement Information

I20 Reg. 66 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F39} Enterprise zones and European offshore marine sites

66A. An order designating an enterprise zone, or the approval of a modified scheme, if made or given on or after 21st August 2007, shall not have effect to grant planning permission for development which is likely to have a significant effect on a European offshore marine site (either alone or in combination with other plans or projects).]

Textual Amendments

F39 Reg. 66A inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), **5(38)** (with reg. 9)

Simplified planning zones and enterprise zones: supplementary provisions as to compensation

67.—(1) Where in England and Wales—

- (a) planning permission is withdrawn by regulation 65 or 66, and
- (b) development authorised by the permission had been begun but not completed before the commencement of these Regulations, and
- (c) on an application made under Part III of the Town and Country Planning Act 1990 before the end of the period of 12 months beginning with the date of commencement of these Regulations, planning permission for the development is refused or is granted subject to conditions other than those imposed by the scheme,

section 107(1)(a) of that Act (compensation in respect of abortive expenditure) shall apply as if the permission granted by the scheme had been granted by the local planning authority under Part III of that Act and had been revoked or modified by an order under section 97 of that Act.

(2) Where in Scotland—

- (a) planning permission is withdrawn by regulation 65 or 66, and
- (b) development authorised by the permission had been begun but not completed before the commencement of these Regulations, and
- (c) on an application made under Part III of the Town and Country Planning (Scotland) Act 1972 before the end of the period of 12 months beginning with the date of commencement of these Regulations, planning permission for the development is refused or is granted subject to conditions other than those imposed by the scheme,

section 153(1)(a) of that Act (compensation in respect of abortive expenditure) shall apply as if the permission granted by the scheme had been granted by the local planning authority under Part III of that Act and had been revoked or modified by an order under section 42 of that Act.

(3) Paragraphs (1) and (2) above do not apply in relation to planning permission for the development of operational land by statutory undertakers.

Commencement Information

I21 Reg. 67 in force at 30.10.1994, see **reg. 1(2)**

[^{F40}Grant of development consent

67A.—(1) Regulation 48 (assessment of implications for European site) and, with the exception of paragraph (1A), regulation 49 (considerations of overriding public interest) apply in relation to the making of an order granting development consent under the Planning Act 2008.

(2) Where those provisions apply, the competent authority may, if they consider that any adverse effects of the plan or project on the integrity of a European site or European offshore marine site would be avoided if the order granting development consent includes requirements under section 120 of the Planning Act 2008, make an order subject to those requirements.]

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

Textual Amendments

F40 Regs. 67A, 67B inserted (1.10.2009) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2438\)](#), regs. 1(1), **6(1)**

[^{F40}Development consent: review

67B.—(1) Regulations 50 (review of existing decisions and consents, &c) and 51 (consideration on review) apply, with the modification specified in paragraph (2), to any order granting development consent under the Planning Act 2008 unless—

- (a) the development to which it related has been completed before the site becomes a European site or a European offshore marine site,
- (b) it included a requirement 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) the development consent was granted for a limited period and that period has expired.

(2) Regulation 50(2) applies as if the words “and regulation 48A” were omitted.

(3) For the purpose of this regulation, in a case where the Panel or the Council made the order granting development consent, the Commission shall carry out any review.

(4) The Commission shall consult the Secretary of State for the purpose of any review under regulations 50 and 51.

(5) In reviewing any order granting development consent in pursuance of regulations 50 and 51, the competent authority shall—

- (a) consider whether any adverse effects could be overcome by imposing requirements under paragraph 5(4)(c), (d) or (e) of Schedule 6 to the Planning Act 2008, and
- (b) if they consider that those effects could be so overcome, impose those requirements by making such an order under paragraph 3(1) of Schedule 6 (changes to, and revocation of, orders granting development consent) to the Planning Act 2008 as may be required.

(6) Any order made by the Commission under paragraph 3(1) of Schedule 6 to the Planning Act 2008 shall, if not made on the application of the Secretary of State under paragraph 3(6) of that Schedule, be treated as so made.

(7) Paragraph (6) shall only have effect where the Secretary of State has agreed to the making of such an order by the Commission.]

Textual Amendments

F40 Regs. 67A, 67B inserted (1.10.2009) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2438\)](#), regs. 1(1), **6(1)**

[^{F41}Interpretation

68.—(1) Regulations 54 to 67 shall be construed—

- (a) in England and Wales, as one with the Town and Country Planning Act 1990; and
- (b) in Scotland, as one with the Town and Country Planning (Scotland) Act 1997 .

(2) In regulations 67A and 67B, the terms “the Commission”, “the Council”, “development”, “development consent” and “the Panel” shall have the meanings given by the Planning Act 2008.]

Textual Amendments

F41 Reg. 68 substituted (1.10.2009) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2438\)](#), regs. 1(1), **6(2)**

Commencement Information

I22 Reg. 68 in force at 30.10.1994, see [reg. 1\(2\)](#)

Highways and roads

Construction or improvement of highways or roads

69.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F42}European sites in Great Britain and European offshore marine sites]) apply in relation to any plan or project—

- (a) by the Secretary of State—
 - (i) to construct a new highway or to improve, within the meaning of the Highways Act 1980(**25**), an existing highway, or
 - (ii) to construct a new road or to improve, within the meaning of the Roads (Scotland) Act 1984(**26**), an existing road; or
- (b) by a local highway authority or local roads authority, to carry out within the boundaries of a road any works required for the improvement of the road.

(2) Regulations 50 and 51 (requirement to review certain decisions and consents, &c.) apply to any such plan or project as is mentioned in paragraph (1) unless the works have been completed before the site became a European site [^{F43}or European offshore marine site] or, if later, the commencement of these Regulations.

Textual Amendments

F42 Words in [reg. 69\(1\)](#) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(39)(a)** (with [reg. 9](#))

F43 Words in [reg. 69\(2\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(39)(b)** (with [reg. 9](#))

Commencement Information

I23 Reg. 69 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F44}Core and other paths

69A.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F45}European sites in Great Britain and European offshore marine sites]) apply in relation to a local authority’s proposal—

- (a) to draw up or change a plan for core paths under section 17 of the Land Reform (Scotland) Act 2003 (asp 2);
- (b) to enter a path agreement under section 21 of that Act;
- (c) to create or maintain a path delineated under such an agreement;

(25) 1980 c. 66; the expression “improvement” is defined in section 329(1) of the Act.

(26) 1984 c. 54; the expression “improvement” is defined in section 151(1) of the Act.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

- (d) as to how any such path is to be created or maintained;
 - (e) to make a path order under section 22 of that Act;
 - (f) as to how any path delineated under such an order is to be created or maintained.
- (2) Regulations 50 and 51 (requirement to review certain decisions) apply to any decision by a local authority in relation to any of the things mentioned in paragraph (1).]

Textual Amendments

- F44** S. 69A inserted (S.) (9.2.2005) by [Land Reform \(Scotland\) Act 2003 \(asp 2\)](#), s. 100(3), **Sch. 2 para. 16**; [S.S.I. 2005/17](#), **art. 2(b)**
- F45** Words in s. 69A substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(40)** (with reg. 9)

Cycle tracks and other ancillary works

70. As from the commencement of these Regulations, section 3(10) of the Cycle Tracks Act 1984⁽²⁷⁾ and section 152(4) of the Roads (Scotland) Act 1984 shall cease to have effect to deem planning permission to be granted for development which—

- (a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

whether or not the development authorised by the permission has been begun.

Commencement Information

- I24** Reg. 70 in force at 30.10.1994, see [reg. 1\(2\)](#)

Electricity

Consents under Electricity Act 1989: application of general requirements

71.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F46}European sites in Great Britain and European offshore marine sites]) apply in relation to the granting of—

- (a) consent under section 36 of the Electricity Act 1989⁽²⁸⁾ to construct, extend or operate a generating station [^{F47}in Great Britain], 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 [^{F48}or European offshore marine 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 [^{F49}in Great Britain] or, if later, the commencement of these Regulations,
^{F50} ...

⁽²⁷⁾ 1984 c. 38.

⁽²⁸⁾ 1989 c. 29.

- (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,^{F51} ...
- (c) it was granted for a limited period and that period has expired [^{F52}, or]
- [^{F53}(d) the works to which the consent relates have been completed before the site became a European offshore marine site.]

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 [^{F54}or European offshore marine 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.

[^{F55}(6) In this regulation and in regulations 72, 73 and 74, references to the Electricity Act 1989 are to that Act as it had effect on 1st April 2006.]

Textual Amendments

- F46** Words in [reg. 71\(1\)](#) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(a)(i)** (with [reg. 9](#))
- F47** Words in [reg. 71\(1\)\(a\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(a)(ii)** (with [reg. 9](#))
- F48** Words in [reg. 71\(2\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(b)** (with [reg. 9](#))
- F49** Words in [reg. 71\(3\)\(a\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(c)(i)** (with [reg. 9](#))
- F50** Word in [reg. 71\(3\)\(a\)](#) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(c)(ii)** (with [reg. 9](#))
- F51** Word in [reg. 71\(3\)\(b\)](#) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(d)** (with [reg. 9](#))
- F52** Word in [reg. 71\(3\)\(c\)](#) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(e)** (with [reg. 9](#))
- F53** [Reg. 71\(3\)\(d\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(f)** (with [reg. 9](#))
- F54** Words in [reg. 71\(4\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(g)** (with [reg. 9](#))
- F55** [Reg. 71\(6\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(41)(h)** (with [reg. 9](#))

Commencement Information

- I25** [Reg. 71](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

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—

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

(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.

Commencement Information

I26 Reg. 72 in force at 30.10.1994, see [reg. 1\(2\)](#)

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.

Commencement Information

I27 Reg. 73 in force at 30.10.1994, see [reg. 1\(2\)](#)

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 [^{F56}Upper Tribunal or (in the application of these Regulations to Scotland)] 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.

Textual Amendments

F56 Words in [reg. 74\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 2 para. 48](#) (with Sch. 5)

Commencement Information

I28 Reg. 74 in force at 30.10.1994, see [reg. 1\(2\)](#)

*Pipe-lines***Authorisations under the Pipe-lines Act 1962: application of general requirements**

75.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F57}European sites in Great Britain and European offshore marine sites]) apply in relation to the granting of a pipe-line construction or diversion authorisation under the Pipe-lines Act 1962(29).

(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 [^{F58}or European offshore marine site] would be avoided by granting an authorisation for the execution of works for the placing of the proposed pipe-line or, as the case may be, the portion of the pipe-line to be diverted, along a modified route, he may, subject to the provisions of Schedule 1 to the Pipe-lines Act 1962, grant such an authorisation.

(3) Regulation 50 and 51 (requirement to review existing decisions and consents, &c.) apply to a pipe-line construction or diversion authorisation under the Pipe-lines Act 1962 unless—

- (a) the works to which the authorisation relates have been completed before the site became a European site [^{F59}in Great Britain] or, if later, the commencement of these Regulations,
^{F60} ...
- (b) the authorisation 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,
^{F61} ...
- (c) it was granted for a limited period and that period has expired [^{F62}, or]
- [^{F63}(d) the works to which the consent relates have been completed before the site became a European offshore marine site.]

(4) Where on the review of such an authorisation the Secretary of State considers that any adverse effects on the integrity of a European site [^{F64}or European offshore marine 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 authorisation, he may vary it accordingly.

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

Textual Amendments

- F57** Words in reg. 75(1) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(a)** (with reg. 9)
- F58** Words in reg. 75(2) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(b)** (with reg. 9)
- F59** Words in reg. 75(3)(a) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(c)(i)** (with reg. 9)
- F60** Word in reg. 75(3)(a) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(c)(ii)** (with reg. 9)
- F61** Word in reg. 75(3)(b) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(d)** (with reg. 9)
- F62** Word in reg. 75(3)(c) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(e)** (with reg. 9)
- F63** Reg. 75(3)(d) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(42)(f)** (with reg. 9)

F64 Words in [reg. 75\(4\)](#) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\), 5\(42\)\(g\)](#) (with [reg. 9](#))

Commencement Information

I29 [Reg. 75](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Authorisations under the Pipe-lines Act 1962: procedure on review

76.—(1) Where the Secretary of State decides in pursuance of regulation 75 to revoke or vary an authorisation under the Pipe-lines Act 1962, or a direction deeming planning permission to be granted, he shall serve notice on—

- (a) the person to whom the authorisation was granted 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 serviced 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.

(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 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.

Commencement Information

I30 [Reg. 76](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Authorisations under the Pipe-lines Act 1962: effect of review

77.—(1) The revocation or variation pursuant to regulation 75 of an authorisation under the Pipe-lines Act 1962, or of a direction deeming planning permission to be granted, shall take effect upon service of the notices required by regulation 76(1) or, where there is more than one such notice and those notices are served at different times, upon the service of the last such notice to be served.

(2) Where the Secretary of State decides not to proceed with the revocation or variation, the authorisation 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 authorisation 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

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

- (b) there were substituted for any date specified in the authorisation 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 75 of an authorisation under the Pipe-lines Act 1962, or a direction deeming planning permission to be granted, shall not affect anything done under the authorisation or direction prior to the revocation or variation taking effect.

Commencement Information

I31 Reg. 77 in force at 30.10.1994, see [reg. 1\(2\)](#)

Authorisations under the Pipe-lines Act 1962: compensation for revocation or variation

78.—(1) Where a direction deeming planning permission to be granted is revoked or varied pursuant to regulation 75, that permission shall be treated—

- (a) for the purposes of Part IV of the Town and Country Planning Act 1990⁽³⁰⁾ (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⁽³¹⁾ (Compensation) as having been revoked or modified by order under section 42 of that Act.

(2) Where an authorisation under the Pipe-lines Act 1962 is revoked or varied pursuant to regulation 75, 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 authorisation 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 an authorisation under the Pipe-lines Act 1962, 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 authorisation or direction ceasing to have effect or being varied for the duration of the period between the revocation or variation taking effect under regulation 77(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 [^{F65}Upper Tribunal or (in the application of these Regulations to Scotland)] 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.

⁽³⁰⁾ 1990 c. 8.

⁽³¹⁾ 1972 c. 52.

Textual Amendments

F65 Words in [reg. 78\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 2 para. 49](#) (with [Sch. 5](#))

Commencement Information

I32 Reg. 78 in force at 30.10.1994, see [reg. 1\(2\)](#)

Transport and works

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

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⁽³²⁾.

(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.

Commencement Information

I33 Reg. 79 in force at 30.10.1994, see [reg. 1\(2\)](#)

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

+W

79.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F97}European sites in Great Britain and European offshore marine sites]) apply in relation to the making of an order under section 1 or 3 of the Transport and Works Act 1992⁽³²⁾.

(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 [^{F98}or European offshore marine 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 [^{F99}or a European offshore marine 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 [^{F100}or European offshore marine site] of the carrying out or, as

(32) 1992 c. 42.

(32) 1992 c. 42.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

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.

Textual Amendments

- F97** Words in [reg. 79\(1\)](#) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(43\)\(a\)](#) (with [reg. 9](#))
- F98** Words in [reg. 79\(2\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(43\)\(b\)](#) (with [reg. 9](#))
- F99** Words in [reg. 79\(3\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(43\)\(c\)](#) (with [reg. 9](#))
- F100** Words in [reg. 79\(4\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(43\)\(d\)](#) (with [reg. 9](#))

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.

(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.

Commencement Information

- I34** Reg. 80 in force at 30.10.1994, see [reg. 1\(2\)](#)

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.

Commencement Information

I35 Reg. 81 in force at 30.10.1994, see [reg. 1\(2\)](#)

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 [F⁶⁶Upper 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.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

Textual Amendments

F66 Words in [reg. 82\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), [art. 1](#), [Sch. 2 para. 50](#) (with [Sch. 5](#))

Commencement Information

I36 [Reg. 82](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Environmental controls

Authorisations under Part I of the Environmental Protection Act 1990

^{F67}**83.**—^{F68}(1)

^{F68}(2)

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, &c.) apply to any [^{F69}authorisation under Part I of the Environmental Protection Act 1990].

(4) Where on the review of such an authorisation the competent authority consider that any adverse effects on the integrity of a European site of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the authorisation, they may vary it, or cause it to be varied, accordingly.

(5) Where any question arises as to ^{F70}... affirming an authorisation on review, under regulation 49 (considerations of overriding public interest), the competent authority shall refer the matter to the Secretary of State who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.]

Textual Amendments

F67 [Regs. 83, 84](#) omitted (E.W.) (6.4.2008) by virtue of [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), [reg. 1\(1\)\(b\)](#), [Sch. 21 para. 35\(2\)](#) (with [regs. 69-72](#))

F68 [Reg. 83\(1\)\(2\)](#) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(44\)\(a\)](#) (with [reg. 9](#))

F69 Words in [reg. 83\(3\)](#) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(44\)\(b\)](#) (with [reg. 9](#))

F70 Words in [reg. 83\(5\)](#) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), [regs. 2\(1\)](#), [5\(44\)\(c\)](#) (with [reg. 9](#))

Commencement Information

I37 [Reg. 83](#) in force at 30.10.1994, see [reg. 1\(2\)](#)

Licences under Part II of the Environmental Protection Act 1990

^{F67}**84.**—(1) Regulations 48 and 49 (requirement to consider effect on [^{F71}European sites in Great Britain and European offshore marine sites]) apply in relation to—

- (a) the granting of a waste management licence under Part II of the Environmental Protection Act 1990 [^{F72}, and]
- (b) the passing of a resolution under section 54 of that Act (provisions as to land occupied by disposal authorities themselves). ^{F73}...

^{F74}(c)

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site [^{F75}or European offshore marine site] would be avoided by making any licence subject to conditions, they may grant a licence, or cause a licence to be granted, or, as the case may be, pass a resolution, subject to those conditions.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, &c.) apply to any such licence or resolution as is mentioned in paragraph (1).

(4) Where on the review of such a licence or resolution the competent authority consider that any adverse effects on the integrity of a European site [^{F76}or European offshore marine site] of the carrying out or, as the case may be, the continuation of the activities authorised by it would be avoided by a variation of the licence or resolution, they may vary it, or cause it to be varied, accordingly.]

Textual Amendments

- F67** Regs. 83, 84 omitted (E.W.) (6.4.2008) by virtue of [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 35(2)** (with regs. 69-72)
- F71** Words in reg. 84(1) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(a)(i)** (with reg. 9)
- F72** Words in reg. 84(1)(a) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(a)(ii)** (with reg. 9)
- F73** Word in reg. 84(1)(b) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(a)(iii)** (with reg. 9)
- F74** Reg. 84(1)(c) omitted (21.8.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(a)(iv)** (with reg. 9)
- F75** Words in reg. 84(2) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(b)** (with reg. 9)
- F76** Words in reg. 84(4) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(45)(c)** (with reg. 9)

Commencement Information

- I38** Reg. 84 in force at 30.10.1994, see [reg. 1\(2\)](#)

^{F77}^{F78}**Environmental permits under the Environmental Permitting (England and Wales) Regulations 2007** **E+W**

84A.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F79}European sites in Great Britain and European offshore marine sites]) apply in relation to the granting of [^{F80}an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007].

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site [^{F81}or European offshore marine site] would be avoided if the permit were subject to conditions, they may grant a permit, or cause a permit to be granted, subject to those conditions.

(3) Regulations 50 and 51 (requirement to review existing decisions and consents, etc.) apply to any such permit as is mentioned in paragraph (1).

(4) Where on the review of such a permit the competent authority consider that any adverse effects on the integrity of a European site [^{F82}or European offshore marine site] of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the permit, they may vary it, or cause it to be varied, accordingly.

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

(5) Where any question arises as to agreeing to a plan or project, or affirming a permit on review, under regulation 49 (considerations of overriding public interest), the competent authority shall refer the matter to the Secretary of State who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.]

Extent Information

E3 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

- F77** Reg. 84A inserted (E.W.) (1.8.2000) by [The Pollution Prevention and Control \(England and Wales\) Regulations 2000 \(S.I. 2000/1973\)](#), reg. 1(1), **Sch. 10 para. 37** (with regs. 1(3), 5)
- F78** Reg. 84A heading substituted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 35(3)(a)** (with regs. 69-72)
- F79** Words in reg. 84A(1) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(46)(a)** (with reg. 9)
- F80** Words in reg. 84A(1) substituted (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 35(3)(b)** (with regs. 69-72)
- F81** Words in reg. 84A(2) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(46)(b)** (with reg. 9)
- F82** Words in reg. 84A(4) inserted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(46)(c)** (with reg. 9)

[^{F101}Permits under the Pollution Prevention and Control (Scotland) Regulations 2000 **S**

84A.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F102}European sites in Great Britain and European offshore marine sites]) apply in relation to the granting of a permit under the Pollution Prevention and Control (Scotland) Regulations 2000.

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site [^{F103}or European offshore marine site] would be avoided if the permit were subject to conditions, they may grant a permit, or cause a permit to be granted, subject to those conditions.

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

(4) Where on the review of such a permit the competent authority consider that any adverse effects on the integrity of a European site [^{F104}or European offshore marine site] of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the permit, they may vary it, or cause it to be varied, accordingly.

(5) Where any question arises as to agreeing to a plan or project, of affirming a permit on review, under regulation 49 (considerations of overriding public interest), the competent authority shall refer the matter to the Scottish Ministers who shall determine the matter in accordance with that regulation and give directions to the authority accordingly.]

Textual Amendments

- F101** Reg. 84A inserted (S.) (28.9.2000) by [The Pollution Prevention and Control \(Scotland\) Regulations 2000 \(S.S.I. 2000/323\)](#), reg. 1(1), **sch. 10 para. 12** (with reg. 34)
- F102** Words in reg. 84A(1) substituted (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(47)(a)** (with reg. 9)

F103 Words in reg. 84A(2) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), 5(47)(b) (with reg. 9)

F104 Words in reg. 84A(4) inserted (21.8.2007) by The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007 (S.I. 2007/1843), regs. 2(1), 5(47)(c) (with reg. 9)

^{F83} Abstraction and works authorised under water legislation **E+W**

84B.—(1) Regulations 48 and 49 (requirement to consider effect on European sites in Great Britain and European offshore marine sites) apply in relation to the granting of an authorisation by virtue of—

- (a) the granting of a licence under Chapter 2 of Part 2 of the WRA (abstraction and impounding);
- (b) the making of an order under section 27A of the WRA (variation of small quantity threshold);
- (c) the making of regulations under section 33A of the WRA (power to provide for further exemptions), where those regulations relate to—
 - (i) a prescribed geographical area;
 - (ii) a prescribed source of supply (in the case of an exemption from the restriction on abstraction or the other restrictions imposed by section 24 of the WRA); or
 - (iii) prescribed inland waters (in the case of an exemption from the restriction on impounding works);
- (d) any consent given under paragraph (2);
- (e) the making of an order under section 73 of the WRA (power to make ordinary and emergency drought orders) which has the effect of authorising—
 - (i) an abstraction or additional abstraction; or
 - (ii) a discharge or additional discharge;
- (f) the granting of a permit under section 79A of that Act (drought permits);
- (g) any consent given under section 166 of the WIA (consents for certain discharges under section 165) or section 164 of the WRA (consents for certain discharges under section 163); or
- (h) the making of an order under section 167 of the WIA (compulsory works orders) or section 168 of the WRA (compulsory works orders).

(2) An exemption conferred by regulations under section 33A of the WRA, other than regulations referred to in paragraph (1)(c), shall not apply in relation to any particular abstraction or impounding works unless the Agency has given consent in writing to the abstraction or impounding works being carried out.

(3) Where, in relation to any plan or project authorised by any means referred to in sub-paragraphs (a) to (h) of paragraph (1), the competent authority consider that any adverse effects of the plan or project on the integrity of a European site or European offshore marine site would be avoided if the authorisation were subject to conditions, they may grant the authorisation, or cause it to be granted, subject to those conditions.

(4) Where, by virtue of paragraph (1)(g), regulations 48 and 49 apply in relation to the granting of an authorisation by virtue of a consent under section 166 of the WIA or section 164 of the WRA, the section in question shall have effect as if in each case—

- (a) in subsection (3), the words “and, subject to that subsection, where an application for any consent is required to be determined within the period specified in paragraph (a) above

Status: Point in time view as at 01/10/2009.

Changes to legislation: There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Regulations 1994, PART IV. (See end of Document for details)

and is not so determined, the consent applied for shall be deemed to have been given unconditionally.” were omitted; and

(b) in paragraph (a) of that subsection, for the words “the period of seven days” there were substituted the words “the period of fourteen days”.

(5) Regulations 50 (requirement to review existing decisions and consents, etc) and 51 (consideration on review) apply to any authorisation mentioned in paragraph (1)(a), (b), (c), (d) or (h).

(6) Where on the review of any such authorisation the competent authority consider that any adverse effects on the integrity of a European site or European offshore marine site of the carrying out or, as the case may be, the continuation of the activities authorised by it would be avoided by a variation of the authorisation, they may vary it, or cause it to be varied, accordingly.

(7) In this regulation—

“the Agency” means the Environment Agency;

“the WIA” means the Water Industry Act 1991; and

“the WRA” means the Water Resources Act 1991.]

Extent Information

E4 This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

Textual Amendments

F83 [Reg. 84B](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(48)** (with reg. 9)

[^{F105} **Abstraction and works authorised under water legislation** **S**]

84B.—(1) Regulations 48 and 49 apply in relation to—

- (a) the grant of an authorisation under regulation 8 (registration) or 9 (water use licence);
- (b) the variation under regulation 19 (variation of authorisation) in accordance with either regulation 20 (procedure for variation) or regulation 21 (request for variation), as the case may be, or the partial variation under regulation 25(4) (determination of application for surrender) of an authorisation; and
- (c) the determination of an appeal under regulation 47 (determination of appeals) against a decision of the Scottish Environment Protection Agency referred to in regulation 46(a), (b), (c), (d), (e), (ee) or (g),

of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (“the 2005 Regulations”).

(2) In a case referred to in paragraph (1), where the competent authority considers that any adverse effects of the plan or project on the integrity of a European site [^{F106}or European offshore marine site] would be avoided if the grant or variation of the authorisation were subject to conditions or, as the case may be, further conditions, it may grant or vary the authorisation subject to those conditions.

(3) Regulations 50 and 51 apply to authorisations under regulation 8 or 9 of the 2005 Regulations.

(4) Where on the review of an authorisation under regulation 8 or 9 of the 2005 Regulations, the competent authority considers that any adverse effects on the integrity of a European site [^{F107}or European offshore marine site] of the carrying out or, as the case may be, the continuation of the

activity authorised would be avoided by a variation of the authorisation, it may vary the authorisation, or cause it to be varied, accordingly.]

Textual Amendments

- F105** Reg. 84B inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **20**
- F106** Words in reg. 84B(2) inserted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(49)(a)** (with reg. 9)
- F107** Words in reg. 84B(4) inserted (S.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(49)(b)** (with reg. 9)

[^{F84}Marine works

84C.—(1) Regulations 48 (assessment of implications for European site) and 49 (considerations of overriding public interest) apply in relation to the granting of a licence, consent or other approval for marine works.

(2) 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 or European offshore marine site would be avoided if the licence, consent or other approval were subject to conditions or requirements, grant the licence, consent or other approval subject to those conditions or requirements.

(3) Regulations 50 (review of existing decisions and consents, &c) and 51 (consideration on review) apply to any such licence, consent of other approval mentioned in paragraph (1).

(4) Where on the review of any such licence, consent or other approval the competent authority consider that any adverse effects on the integrity of a European site or European offshore marine site of the carrying out or, as the case may be, the continuation of activities authorised by it would be avoided by a variation of the licence, consent or other approval, they may vary it accordingly.

(5) This regulation shall not apply in relation to any application for a licence mentioned in paragraph (6)(a), or a consent mentioned in paragraph (6)(b), in respect of dredging where—

- (a) the Secretary of State has determined that the dredging would constitute a habitats project under the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007; or
- (b) the Welsh Ministers have determined that the dredging would constitute a habitats project under the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Wales) Regulations 2007.

(6) In this regulation, “marine works” means any activity or proposed activity requiring—

- (a) a licence under Part 2 of the Food and Environment Protection Act 1985;
- (b) a consent under section 34 of the Coast Protection Act 1949;
- (c) an approval or consent for works involved in the construction of a harbour or involving the making of modifications to an existing harbour under—
 - (i) a local Act;
 - (ii) such an Act read together with a notice given and published under section 9 of the Harbours Transfer Act 1862; or
 - (iii) an order made under section 14 or 16 of the Harbours Act 1964.

(7) For the purposes of any provision in regulations 49 to 53 which is applied by this regulation and which confers a function on the Secretary of State, any reference to the Secretary of State in

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that provision is to be taken to be a reference to the Welsh Ministers, if the function 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 paragraph (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).
- (8) In paragraph (7), “authorisation” means any licence, consent or other approval.]

Textual Amendments

F84 Reg. 84C inserted (E.W.) (1.10.2009) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) \(No. 2\) Regulations 2009 \(S.I. 2009/2438\)](#), regs. 1(1), **9**

Discharge consents under water pollution legislation **S**

85.—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the giving of consent under—

- (a) Chapter II of Part III to the Water Resources Act 1991(**33**) (control of pollution of water resources), ^{F85} ...
- ^{F85}(b)

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site would be avoided by making any consent subject to conditions, they may give consent, or cause it to be given, subject to those conditions.

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

(4) Where on the review of such a consent the competent authority consider 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 activities authorised by it would be avoided by a variation of the consent, they may vary it, or cause it to be varied, accordingly.

Extent Information

E5 This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

Textual Amendments

F85 Reg. 85(1)(b) and word omitted (S.) (15.2.2007) by virtue of [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **21**

Commencement Information

I39 Reg. 85 in force at 30.10.1994, see [reg. 1\(2\)](#)

Discharge consents under water pollution legislation **E+W**

85.—(1) Regulations 48 and 49 (requirement to consider effect on [^{F108}European sites in Great Britain and European offshore marine sites]) apply in relation to the giving of consent under—

- (a) Chapter II of Part III to the Water Resources Act 1991 (**33**) (control of pollution of water resources) [^{F109}.]
- (b)

(2) Where in such a case the competent authority consider that any adverse effects of the plan or project on the integrity of a European site [^{F110} or European offshore marine site] would be avoided by making any consent subject to conditions, they may give consent, or cause it to be given, subject to those conditions.

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

(4) Where on the review of such a consent the competent authority consider that any adverse effects on the integrity of a European site [^{F111} or European offshore marine site] of the carrying out or, as the case may be, the continuation of the activities authorised by it would be avoided by a variation of the consent, they may vary it, or cause it to be varied, accordingly.

Textual Amendments

F108 Words in [reg. 85\(1\)](#) substituted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(50)(a)(i)** (with [reg. 9](#))

F109 [Reg. 85\(1\)\(a\)](#): full stop substituted word (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(50)(a)(ii)** (with [reg. 9](#))

F110 Words in [reg. 85\(2\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(50)(b)** (with [reg. 9](#))

F111 Words in [reg. 85\(4\)](#) inserted (E.W.) (21.8.2007) by [The Conservation \(Natural Habitats, &c.\) \(Amendment\) Regulations 2007 \(S.I. 2007/1843\)](#), regs. 2(1), **5(50)(c)** (with [reg. 9](#))

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