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STATUTORY INSTRUMENTS

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**1994 No. 2716**

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

**PART IV**

**ADAPTATION OF PLANNING AND OTHER CONTROLS**

*Pipe-lines*

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

**75.**—(1) Regulations 48 and 49 (requirement to consider effect on European site) apply in relation to the granting of a pipe-line construction or diversion authorisation under the Pipe-lines Act 1962(1).

(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 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 or, if later, the commencement of these Regulations, or
- (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, or
- (c) it was granted for a limited period and that period has expired.

(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 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.

**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

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(1) 1962 c. 58.

(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.

#### **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
- (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.

#### **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(2) (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(3)(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 Lands Tribunal, or 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.