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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 6**

**ASSESSMENT OF PLANS AND PROJECTS**

**CHAPTER 4**

**ELECTRICITY**

**Consents under Electricity Act 1989: compensation**

**89.**—(1) Where a direction deeming planning permission to be granted is revoked or varied pursuant to regulation 86(6), that permission is to be treated—

- (a) for the purposes of Part 4 of the TCPA 1990 (compensation for effects of certain orders, notices etc.) as having been revoked or modified by order under section 97(1) of that Act (power to revoke or modify planning permission); or
- (b) for the purposes of Part 4 of the Town and Country Planning (Scotland) Act 1997(2) (compensation for effects of certain orders, notices etc.) as having been revoked or modified by order under section 65(3) of that Act (power to revoke or modify planning permission).

(2) Where a consent under the Electricity Act 1989 is revoked or varied pursuant to regulation 86(3) or (5), Part 4 of the TCPA 1990 or Part 4 of the Town and Country Planning (Scotland) Act 1997 (as the case may be) applies 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- (a) the consent had been planning permission granted on an application under that Act and had been revoked or modified by order under section 97 of the TCPA 1990 or section 65 of the Town and Country Planning (Scotland) Act 1997; and
- (b) that Part provided that the competent authority was the person liable to pay any compensation provided for by that Part.

(3) Paragraph (2) does not confer any right to compensation for any expenditure, loss or damage for which compensation is payable by virtue of paragraph (1).

(4) Where the competent authority decide not to proceed with the revocation or variation of a consent under the Electricity Act 1989 or a direction deeming planning permission to be granted, any claim for compensation by virtue of this regulation is 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 88(1) and the competent authority's decision not to proceed with it.

(5) Where compensation is payable by virtue of this regulation, the question as to the amount of the compensation must be referred to and determined by the Upper Tribunal, or the Lands Tribunal

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

(2) 1997 c. 8.

(3) Section 65 was amended by S.S.I. 2006/243.

for Scotland, unless and to the extent that in any particular case the competent authority have indicated in writing that such a reference and determination may be dispensed with.