
STATUTORY INSTRUMENTS

2017 No. 1012

The Conservation of Habitats and Species Regulations 2017

PART 6

Assessment of plans and projects

CHAPTER 4

Electricity

Consents under Electricity Act 1989: application of assessment and review provisions

89.—(1) The assessment provisions apply in relation to the granting of—

- (a) consent under section 36 of the Electricity Act 1989 (consent required for construction etc. of generating stations)(**1**) to construct, extend or operate a generating station in Great Britain; or
- (b) consent under section 37 of that Act (consent required for overhead lines)(**2**) for an electric line to be installed or kept installed above ground.

(2) Where in such a case the competent authority considers that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the consent were subject to conditions, the competent authority may grant consent subject to those conditions.

(3) The review provisions apply to a consent mentioned in paragraph (1) unless—

- (a) in the case of a consent to construct or extend (whether or not also to operate) a generating station or a consent of a kind mentioned in paragraph (1)(b)—
 - (i) the works to which the consent relates were completed before the relevant date; or
 - (ii) 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 those works having been begun;
- (b) in the case of a consent to operate (but not also to construct or extend) a generating station, the operation began before the relevant date; or
- (c) in any case, the consent was for a limited period and that period has expired.

(4) Where the consent is to construct or extend, but also to operate, a generating station, the works, if not already completed when the generating station is first operated in reliance on the consent, are to be treated as completed at that date.

(1) 1989 c. 29. Section 36 was amended by the Energy Act 2004 (c. 20), section 93; by the Planning Act 2008, Schedule 2, paragraphs 31 and 32; by the Marine Act, section 12(7)(a) and (8); by the Energy Act 2016 (c. 20), section 78; and by S.I. 2006/1054, and is prospectively amended by the Wales Act 2017 (c. 4), section 39(7) to (11), and Schedule 6, Part 3, paragraph 47, from a date to be appointed. Section 36C of the Act, inserted by the Growth and Infrastructure Act 2013 (c. 27), section 20, provides for the variation of consents granted under section 36.

(2) Section 37 was amended by the Planning Act 2008, Schedule 2, paragraphs 31 and 33; and is prospectively amended by the Wales Act 2017, section 42 from a date to be appointed.

(5) In the case of a consent of a kind mentioned in paragraph (1)(b) for an electric line to be kept installed, the works to which the consent relates are to be treated for the purposes of paragraph (3) (a) as the works to which any consent for the installation of that line relates.

(6) Where on the review of such a consent, the competent authority considers that any adverse effects on the integrity of a European site or a 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, the authority may vary the consent accordingly.

(7) In conjunction with the review of any such consent, the competent authority must review any direction deeming planning permission to be granted for the plan or project and may vary or revoke it.

(8) In this regulation, “the relevant date” means the date on which the site became a European site or a European offshore marine site (as the case may be) or (if later) 30th October 1994.