
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 6

ASSESSMENT OF PLANS AND PROJECTS

CHAPTER 5

PIPE-LINES

Authorisations under Pipe-lines Act 1962: application of assessment and review provisions

90.—(1) The assessment provisions apply in relation to the granting of a pipe-line construction authorisation under the Pipe-lines Act 1962(1).

(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 or a European offshore marine site would be avoided by granting an authorisation for the execution of works for the placing of the proposed pipe-line along a modified route, the competent authority may, subject to the provisions of Schedule 1(2) to the Pipe-lines Act 1962 (which relates to applications for pipe-line construction authorisations), grant such an authorisation.

(3) The review provisions apply to an authorisation mentioned in paragraph (1) unless—

(a) the works to which the authorisation relates—

- (i) have been completed before the site became a European site or a European offshore marine site (as the case may be), or
- (ii) were completed before 30th October 1994; or

(b) the authorisation was granted—

- (i) 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, or
- (ii) for a limited period and that period has expired.

(4) Where on the review of such an authorisation the competent authority consider 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 authorisation, the authority may vary it accordingly.

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

(1) 1962 c. 58; see section 1, which relates to pipe-line construction authorisations.

(2) Schedule 1 was amended by the Petroleum Act 1987 (c. 12), section 25, and by S.I. 1992/449 and 1999/742.

Authorisations under Pipe-lines Act 1962: procedure on review

91.—(1) Where the competent authority decide in pursuance of regulation 90(3), (4) or (5) to revoke or vary an authorisation under the Pipe-lines Act 1962 or a direction deeming planning permission to be granted, the authority must 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 the authority's 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 the authority.

(2) The competent authority must 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 competent authority must consider whether to proceed with the revocation or variation, and must have regard to any representations made 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 competent authority must before deciding whether to proceed with the revocation or variation give—

- (a) to that person or the local planning authority (as the case may be), 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 competent authority for the purpose.

Authorisations under Pipe-lines Act 1962: effect of review

92.—(1) The revocation or variation pursuant to regulation 90(3), (4) or (5) of an authorisation under the Pipe-lines Act 1962 or a direction deeming planning permission to be granted takes effect upon the service of the notices required by regulation 91(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 competent authority decide not to proceed with the revocation or variation, the authorisation or direction has effect again as from the time of that decision, and thereafter has 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 (“the specified date”), not being a date falling prior to the date mentioned in paragraph (1), such later date as postpones the specified date by a period equal to that during which the revocation or variation had effect.

(3) The revocation or variation of an authorisation or direction as mentioned in paragraph (1) does not affect anything done under the authorisation or direction prior to the revocation or variation taking effect.

Authorisations under Pipe-lines Act 1962: compensation

93.—(1) Where a direction deeming planning permission to be granted is revoked or varied pursuant to regulation 90(5), 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(3) 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(4) (compensation for effects of certain orders, notices etc.) as having been revoked or modified by order under section 65(5) of that Act (power to revoke or modify planning permission).

(2) Where an authorisation under the Pipe-lines Act 1962 is revoked or varied pursuant to regulation 90(3) or (4), 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 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 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 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 is 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 92(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 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.

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

(4) 1997 c. 8.

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