



Town and Country Planning Act 1971

1971 CHAPTER 78

PART XII

VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

245 Proceedings for questioning validity of other orders, decisions and directions

- (1) If any person—
- (a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that order; or
 - (b) is aggrieved by any action on the part of the Secretary of State to which this section applies and desires to question the validity of that action, on the grounds that the action is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that action,
- he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the High Court under this section.
- (2) Without prejudice to subsection (1) of this section, if the authority directly concerned with any order to which this section applies, or with any action on the part of the Secretary of State to which this section applies, desire to question the validity of that order or action on any of the grounds mentioned in subsection (1) of this section, the authority may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the High Court under this section.
- (3) This section applies to any such order as is mentioned in subsection (2) of section 242 of this Act and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of that section.
- (4) On any application under this section the High Court—

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- (a) may by interim order suspend the operation of the order or action, the validity whereof is questioned by the application, until the final determination of the proceedings;
- (b) if satisfied that the order or action in question is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation thereto, may quash that order or action:

Provided that paragraph (a) of this subsection shall not apply to applications questioning the validity of tree preservation orders.

- (5) In relation to a tree preservation order, or to an order made in pursuance of section 63(4) of this Act, the powers conferred on the High Court by subsection (4) of this section shall be exercisable by way of quashing or (where applicable) suspending the operation of the order either in whole or in part, as the court may determine.
- (6) References in this section to the confirmation of an order include the confirmation of an order subject to modifications as well as the confirmation of an order in the form in which it was made.
- (7) In this section "the relevant requirements", in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act 1971 (or any enactment replaced thereby), or of any order, regulations or rules made under this Act or under that Act (or any such enactment) which are applicable to that order or action, and any reference to the authority directly concerned with any order or action to which this section applies—
 - (a) in relation to an order made by a local authority other than the local planning authority, and in relation to any decision of the Secretary of State on appeal from a decision made by such a local authority, is a reference to that local authority ;
 - (b) in relation to any such decision as is mentioned in section 242(3)(i) or (j) of this Act, is a reference to the council on whom the notice in question was served, and, in a case where the Secretary of State has modified such a notice, wholly or in part, by substituting another local authority or statutory undertakers for that council, includes a reference to that local authority or those statutory undertakers;
 - (c) in any other case, is a reference to the local planning authority:

Provided that if, in a case falling within paragraph (a) of this subsection, the order or decision in question was made in the exercise of functions delegated to the other local authority by the local planning authority, and it is agreed between the two authorities that the local planning authority shall act in the matter, the reference shall be construed as a reference to the local planning authority.