



Town and Country Planning Act 1990

1990 CHAPTER 8

PART XII

VALIDITY

284 Validity of development plans and certain orders, decisions and directions

- (1) Except in so far as may be provided by this Part, the validity of—
- (a) a structure plan, local plan or unitary development plan or any alteration, repeal or replacement of any such plan, whether before or after the plan, alteration, repeal or replacement has been approved or adopted; or
 - (b) a simplified planning zone scheme or an alteration of such a scheme, whether before or after the adoption or approval of the scheme or alteration; or
 - (c) an order under any provision of Part X except section 251(1), whether before or after the order has been made; or
 - (d) an order under section 277, whether before or after the order has been made; or
 - (e) any such order as is mentioned in subsection (2), whether before or after it has been confirmed; or
 - (f) any such action on the part of the Secretary of State as is mentioned in subsection (3),
- shall not be questioned in any legal proceedings whatsoever.
- (2) The orders referred to in subsection (1)(e) are—
- (a) any order under section 97 or under the provisions of that section as applied by or under any other provision of this Act;
 - (b) any order under section 102;
 - (c) any tree preservation order;
 - (d) any order made in pursuance of section 221(5);
 - (e) any order under paragraph 1, 3, 5 or 6 of Schedule 9.
- (3) The action referred to in subsection (1)(f) is action on the part of the Secretary of State of any of the following descriptions—

Status: This is the original version (as it was originally enacted).

- (a) any decision on an application for planning permission referred to him under section 77;
 - (b) any decision on an appeal under section 78;
 - (c) the giving of any direction under section 80;
 - (d) any decision to confirm a completion notice under section 95;
 - (e) any decision to grant planning permission under paragraph (a) of section 177(1) or to discharge a condition or limitation under paragraph (b) of that section;
 - (f) any decision to confirm or not to confirm a purchase notice including—
 - (i) any decision not to confirm such a notice in respect of part of the land to which it relates, or
 - (ii) any decision to grant any permission, or give any direction, instead of confirming such a notice, either wholly or in part;
 - (g) any decision on an application for an established use certificate referred to the Secretary of State under subsection (5) of section 192 or on an appeal under section 195(1);
 - (h) any decision relating—
 - (i) to an application for consent under a tree preservation order,
 - (ii) to an application for consent under any regulations made in accordance with section 220 or 221, or
 - (iii) to any certificate or direction under any such order or regulations, whether it is a decision on appeal or a decision on an application referred to the Secretary of State for determination in the first instance.
- (4) Nothing in this section shall affect the exercise of any jurisdiction of any court in respect of any refusal or failure on the part of the Secretary of State to take any such action as is mentioned in subsection (3).

285 Validity of enforcement notices and similar notices

- (1) Subject to the provisions of this section, the validity of an enforcement notice shall not, except by way of an appeal under Part VII, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.
- (2) Subsection (1) shall not apply to proceedings brought under section 179(6) to (8) against a person who—
 - (a) has held an interest in the land since before the enforcement notice was issued under that Part;
 - (b) did not have a copy of the enforcement notice served on him under that Part; and
 - (c) satisfies the court—
 - (i) that he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and
 - (ii) that his interests have been substantially prejudiced by the failure to serve him with a copy of it.
- (3) Subject to subsection (4), the validity of a notice which has been served under section 215 on the owner and occupier of the land shall not, except by way of an appeal under Chapter II of Part VIII, be questioned in any proceedings whatsoever on either of the grounds specified in section 217(1)(a) or (b).

- (4) Subsection (3) shall not prevent the validity of such a notice being questioned on either of those grounds in proceedings brought under section 216 against a person on whom the notice was not served, but who has held an interest in the land since before the notice was served on the owner and occupier of the land, if he did not appeal against the notice under that Chapter.
- (5) The validity of a notice purporting to be an enforcement notice shall not depend on whether any non-compliance to which the notice relates was a non-compliance with conditions, or with limitations, or with both.
- (6) Any reference in such a notice to non-compliance with conditions or limitations (whether both expressions are used in the notice or only one of them) shall be construed as a reference to non-compliance with conditions, or with limitations, or with both conditions and limitations, as the case may require.

286 Challenges to validity on ground of authority's powers

- (1) The validity of any permission, determination or certificate granted, made or issued or purporting to have been granted, made or issued by a local planning authority in respect of—
 - (a) an application for planning permission;
 - (b) an application for determining under section 64 whether an application for such permission is required;
 - (c) an application for an established use certificate under section 192;
 - (d) an application for consent to the display of advertisements under section 220;
or
 - (e) a determination under section 302 or Schedule 15,shall not be called in question in any legal proceedings, or in any proceedings under this Act which are not legal proceedings, on the ground that the permission, determination or certificate should have been granted, made or given by some other local planning authority.
- (2) The validity of any order under section 97 revoking or modifying planning permission, any order under section 102 or paragraph 1 of Schedule 9 requiring discontinuance of use, or imposing conditions on continuance of use, or requiring the alteration or removal of buildings or works, or any enforcement notice under section 172 or stop notice under section 183, being an order or notice purporting to have been made, issued or served by a local planning authority, shall not be called in question in any such proceedings on the ground—
 - (a) in the case of an order or notice purporting to have been made, issued or served by a district planning authority, that they failed to comply with paragraph 11(2) of Schedule 1;
 - (b) in the case of an order or notice purporting to have been made, issued or served by a county planning authority, that they had no power to make, issue or serve it because it did not relate to a county matter within the meaning of that Schedule.

287 Proceedings for questioning validity of development plans and certain schemes and orders

- (1) If any person aggrieved by a unitary development plan or a local plan or by any alteration, repeal or replacement of any such plan or structure plan, desires to question the validity of the plan or, as the case may be, the alteration, repeal or replacement on the ground—
 - (a) that it is not within the powers conferred by Part II, or
 - (b) that any requirement of that Part or of any regulations made under it has not been complied with in relation to the approval or adoption of the plan or, as the case may be, its alteration, repeal or replacement,he may make an application to the High Court under this section.
- (2) On any application under this section the High Court—
 - (a) may by interim order wholly or in part suspend the operation of the plan, or, as the case may be, the alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
 - (b) if satisfied that the plan or, as the case may be, the alteration, repeal or replacement is wholly or to any extent outside the powers conferred by Part II, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of that Part or of any regulations made under it, may wholly or in part quash the plan or, as the case may be, the alteration, repeal or replacement either generally or in so far as it affects any property of the applicant.
- (3) Subsections (1) and (2) shall apply, subject to any necessary modifications, to a simplified planning zone scheme or an alteration of such a scheme or to an order under section 247, 248, 249, 251, 257, 258 or 277 as they apply to any plan or any alteration, repeal or replacement there mentioned.
- (4) An application under this section must be made within six weeks from the relevant date.
- (5) For the purposes of subsection (4) the relevant date is—
 - (a) in the case of an application in respect of such a plan as is mentioned in subsection (1), the date of the publication of the first notice of the approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 26 or, as the case may be, section 53,
 - (b) in the case of an application by virtue of subsection (3) in respect of a simplified planning zone scheme or an alteration of such a scheme, the date of the publication of the first notice of the approval or adoption of the scheme or alteration required by regulations under paragraph 13 of Schedule 7,
 - (c) in the case of an application by virtue of subsection (3) in respect of an order under section 247, 248, 249, or 251, the date on which the notice required by section 252(10) is first published,
 - (d) in the case of an application by virtue of subsection (3) in respect of an order under section 257 or 258, the date on which the notice required by paragraph 7 of Schedule 14 is first published in accordance with that paragraph,
 - (e) in the case of an application by virtue of subsection (3) in respect of an order under section 277, the date on which the notice required by subsection (6) of that section is first published;

but subject, in the case of those orders mentioned in paragraphs (c) and (e) to which section 292 applies, to that section.

- (6) In their application to simplified planning zone schemes and their alteration, subsections (1) and (2) shall have effect as if they referred to Part III instead of Part II.

288 Proceedings for questioning the validity of other orders, decisions and directions

- (1) If any person—
- (a) is aggrieved by any order to which this section applies and wishes to question the validity of that order on the grounds—
 - (i) that the order is not within the powers of this Act, or
 - (ii) 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 wishes to question the validity of that action on the grounds—
 - (i) that the action is not within the powers of this Act, or
 - (ii) that any of the relevant requirements have not been complied with in relation to that action,
- he may make an application to the High Court under this section.
- (2) Without prejudice to subsection (1), 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, wish to question the validity of that order or action on any of the grounds mentioned in subsection (1), the authority may make an application to the High Court under this section.
- (3) An application under this section must be made within six weeks from the date on which the order is confirmed (or, in the case of an order under section 97 which takes effect under section 99 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the action is taken.
- (4) This section applies to any such order as is mentioned in subsection (2) of section 284 and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of that section.
- (5) On any application under this section the High Court—
- (a) may, subject to subsection (6), by interim order suspend the operation of the order or action, the validity of which 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 to it, may quash that order or action.
- (6) Paragraph (a) of subsection (5) shall not apply to applications questioning the validity of tree preservation orders.
- (7) In relation to a tree preservation order, or to an order made in pursuance of section 221(5), the powers conferred on the High Court by subsection (5) 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.

Status: This is the original version (as it was originally enacted).

- (8) 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.
- (9) 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 of any order, regulations or rules made under this Act or under that Act which are applicable to that order or action.
- (10) Any reference in this section to the authority directly concerned with any order or action to which this section applies—
 - (a) in relation to any such decision as is mentioned in section 284(3)(f), 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;
 - (b) in any other case, is a reference to the authority who made the order in question or made the decision or served the notice to which the proceedings in question relate, or who referred the matter to the Secretary of State, or, where the order or notice in question was made or served by him, the authority named in the order or notice.

289 Appeals to High Court relating to enforcement notices and notices under s. 207

- (1) Where the Secretary of State gives a decision in proceedings on an appeal under Part VII against an enforcement notice the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.
- (2) Where the Secretary of State gives a decision in proceedings on an appeal under Part VIII against a notice under section 207, the appellant or the local planning authority or any person (other than the appellant) on whom the notice was served may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Secretary of State to state and sign a case for the opinion of the High Court.
- (3) At any stage of the proceedings on any such appeal as is mentioned in subsection (1), the Secretary of State may state any question of law arising in the course of the proceedings in the form of a special case for the decision of the High Court.
- (4) A decision of the High Court on a case stated by virtue of subsection (3) shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).
- (5) In relation to any proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules—

- (a) prescribing the powers of the High Court or the Court of Appeal with respect to the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the Secretary of State; and
 - (b) providing for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.
- (6) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.
- (7) In this section “decision” includes a direction or order, and references to the giving of a decision shall be construed accordingly.

290 Appeals to High Court against decisions under s. 64

- (1) If, in the case of any decision to which this section applies, the person who made the application to which the decision relates or the local planning authority is dissatisfied with the decision in point of law, that person or, as the case may be, the local planning authority may, according as rules of court may provide, either appeal against the decision to the High Court or require the Secretary of State to state and sign a case for the opinion of the High Court.
- (2) This section applies to any decision of the Secretary of State—
- (a) on an application under section 64 which is referred to the Secretary of State under the provisions of section 77 as applied by that section; or
 - (b) on an appeal brought under the provisions of section 78 as applied by section 64.
- (3) Where an application under section 64 is made as part of an application for planning permission, subsections (1) and (2) shall have effect in relation to that application in so far as it is an application under the said section 64, but not in so far as it is an application for planning permission.
- (4) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section, the power to make rules of court shall include power to make rules prescribing the powers of the High Court or the Court of Appeal with respect to—
- (a) the giving of any decision which might have been given by the Secretary of State;
 - (b) the remitting of the matter, with the opinion or direction of the court, for re-hearing and determination by the Secretary of State;
 - (c) the giving of directions to the Secretary of State.
- (5) No appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or of the Court of Appeal.
- (6) Without prejudice to the previous provisions of this section, rules of court in relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section may provide for the Secretary of State, either generally or in such circumstances as may be prescribed by the rules, to be treated as a party to any such proceedings and to be entitled to appear and to be heard accordingly.

291 Special provisions as to decisions relating to statutory undertakers

In relation to any action which—

Status: This is the original version (as it was originally enacted).

- (a) apart from the provisions of Part XI would fall to be taken by the Secretary of State and, if so taken, would be action falling within section 284(3); but
- (b) by virtue of that Part, is required to be taken by the Secretary of State and the appropriate Minister,

the provisions of sections 284 and 288 shall have effect (subject to section 292) as if any reference in those provisions to the Secretary of State were a reference to the Secretary of State and the appropriate Minister.

292 Special provisions as to orders subject to special parliamentary procedure

- (1) Where an order under section 247, 248, 249 or 277 is subject to special parliamentary procedure, then—
 - (a) if the order is confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945, sections 284 and 287 shall not apply to the order;
 - (b) in any other case, section 287 shall have effect in relation to the order as if, in subsection (4) of that section, for the reference to the date there mentioned there were substituted a reference to the date on which the order becomes operative under section 6 of that Act (“the operative date”).
- (2) Where by virtue of Part XI any such action as is mentioned in section 291 is required to be embodied in an order, and that order is subject to special parliamentary procedure, then—
 - (a) if the order in which the action is embodied is confirmed by Act of Parliament under section 6 of that Act, sections 284 and 288 shall not apply;
 - (b) in any other case, section 288 shall apply with the substitution for any reference to the date on which the action is taken of a reference to the operative date.