



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART XII

#### VALIDITY

#### **289** [F<sup>1</sup>Appeals to High Court relating to [F<sup>2</sup>certain notices]].

(1) Where the Secretary of State gives a decision in proceedings on an appeal under [F<sup>3</sup>section 93I against a completion notice or 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.

[F<sup>4</sup>(2A) Where the Welsh Ministers give a decision in proceedings on an appeal under Part 8 against a notice under section 215, 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 Welsh Ministers to sign and state 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

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<sup>M1</sup>Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

[<sup>F5</sup>(4A) In proceedings brought by virtue of this section in respect of an enforcement notice, the High Court or, as the case may be, the Court of Appeal may, on such terms if any as the Court thinks fit (which may include terms requiring the local planning authority to give an undertaking as to damages or any other matter), order that the notice shall have effect, or have effect to such extent as may be specified in the order, pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.

(4B) Where proceedings are brought by virtue of this section in respect of any notice under section 207 [<sup>F6</sup>or 215], the notice shall be of no effect pending the final determination of those proceedings and any re-hearing and determination by the Secretary of State.]

(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 [<sup>F7</sup>or the Welsh Ministers]; and
- (b) providing for the Secretary of State [<sup>F7</sup>or the Welsh Ministers], 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.

[<sup>F8</sup>(5A) Rules of court may also provide for the High Court or, as the case may be, the Court of Appeal to give directions as to the exercise, until such proceedings in respect of an enforcement notice are finally concluded and any re-hearing and determination by the Secretary of State has taken place, of any other powers in respect of the matters to which such a notice relates.

(6) No proceedings in the High Court shall be brought by virtue of this section except with the leave of that Court and no appeal to the Court of Appeal shall be so brought except with the leave of the Court of Appeal or of the High Court.]

(7) In this section “decision” includes a direction or order, and references to the giving of a decision shall be construed accordingly.

#### Textual Amendments

- F1** S. 289 title substituted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), ss. 48\(8\), 58\(2\)\(b\)\(4\)\(b\)](#); S.I. 2017/546, art. 3(b) (with art. 5)
- F2** Words in s. 289 heading substituted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\), s. 255\(3\), Sch. 11 para. 10\(a\)](#) (with s. 247)
- F3** Words in s. 289(1) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\), s. 255\(3\), Sch. 11 para. 10\(b\)](#) (with s. 247)
- F4** S. 289(2A) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\), ss. 48\(8\)\(a\), 58\(2\)\(b\)\(4\)\(b\)](#); S.I. 2017/546, art. 3(b) (with art. 5)
- F5** S. 289(4A)(4B) inserted (2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\), s. 6\(4\)](#) (with s. 84(5)); S.I. 1991/2905, [art. 3](#) (subject to art. 4)

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- F6** Words in s. 289(4B) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 48(8)(b)**, 58(2)(b)(4)(b); S.I. 2017/546, art. 3(b) (with art. 5)
- F7** Words in s. 289(5) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 48(8)(c)**, 58(2)(b)(4)(b); S.I. 2017/546, art. 3(b) (with art. 5)
- F8** S. 289(5A)(6) substituted for s. 289(6) (25.11.1991 for certain purposes and otherwise 2.1.1992) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), **s. 6(5)** (with s. 84(5)); S.I. 1991/2728, **art. 2**; S.I. 1991/2905, **art.3** (subject to art. 4)

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#### **Modifications etc. (not altering text)**

- C1** S. 289: power to modify conferred (11.3.1992 so far as to confer on the Secretary of State a power to impose on him a duty to make regulations, or make provision with respect to the exercise of any such power or duty, 1.6.1992 so far as not already in force) by [Planning \(Hazardous Substances\) Act 1990 \(c. 10, SIF 123:1\)](#), **s. 25(1)(b)**; S.I. 1992/725, **arts. 2, 3**
- C2** S. 289 applied (with modifications) (1.6.1992) by S.I. 1992/656, reg. 22(1), **Sch. 4 Pt. 4**  
S. 289 applied (with modifications) (27.7.1992) by S.I. 1992/1562, reg. 2, **Sch.**
- C3** S. 289 applied (28.9.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), **ss. 58(4)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)
- C4** S. 289 applied (with modifications) (E.) (1.6.2015) by [The Planning \(Hazardous Substances\) Regulations 2015 \(S.I. 2015/627\)](#), regs. 1(1), 19(1), **Sch. 4 Pt. 4** (with reg. 34)
- C5** S. 289(1) applied (with modifications) (W.) (4.9.2015) by [The Planning \(Hazardous Substances\) \(Wales\) Regulations 2015 \(S.I. 2015/1597\)](#), regs. 1(1), 20(1), **Sch. 4 Pt. 3** (with reg. 36)
- C6** S. 289(3)-(4A) applied (with modifications) (W.) (4.9.2015) by [The Planning \(Hazardous Substances\) \(Wales\) Regulations 2015 \(S.I. 2015/1597\)](#), regs. 1(1), 20(1), **Sch. 4 Pt. 3** (with reg. 36)
- C7** S. 289(5)-(7) applied (with modifications) (W.) (4.9.2015) by [The Planning \(Hazardous Substances\) \(Wales\) Regulations 2015 \(S.I. 2015/1597\)](#), regs. 1(1), 20(1), **Sch. 4 Pt. 3** (with reg. 36)

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#### **Marginal Citations**

- M1** 1981 c. 54.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [2023 asc 3 s. 79\(2\)](#)
- Act applied by [2023 asc 3 s. 83\(4\)](#)
- Act excluded by [2023 asc 3 s. 140\(4\)\(b\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 7(3) inserted by [2023 c. 55 Sch. 17 para. 2\(2\)](#)
- s. 7A(6) inserted by [2023 c. 55 Sch. 17 para. 2\(4\)](#)
- s. 7ZA inserted by [2023 c. 55 Sch. 17 para. 2\(3\)](#)
- s. 58B and cross-heading inserted by [2023 c. 55 s. 102\(1\)](#)
- s. 59A(3)(ba) inserted by [2023 c. 55 Sch. 8 para. 4\(b\)](#)
- s. 62(2A)(za) inserted by [2023 c. 55 s. 124\(2\)](#)
- s. 62B(5)(ca) inserted by [2023 c. 55 Sch. 17 para. 2\(5\)](#)
- s. 70(2)(azb) inserted by [2023 c. 55 Sch. 6 para. 3\(a\)](#)
- s. 70(3)(ca) inserted in earlier affecting provision 2016 c. 22, s. 5(8) by [2023 asc 3 Sch. 13 para. 194](#)
- s. 70(3A) inserted by [2017 c. 20 Sch. 3 para. 2](#)
- s. 70A(5A) inserted by [2023 c. 55 Sch. 6 para. 4\(a\)](#)
- s. 70A(10)(11) inserted by [2023 c. 55 s. 110\(4\)\(b\)](#)
- s. 70B(5A)(5B) inserted by [2023 c. 55 s. 110\(5\)\(b\)](#)
- s. 73B inserted by [2023 c. 55 s. 110\(2\)](#)
- s. 74(1C)(aa) inserted by [2023 c. 55 Sch. 6 para. 5\(b\)](#)
- s. 75ZA and cross-heading inserted by [2016 c. 22 s. 155](#)
- s. 83(1A)-(1C) amendment to earlier affecting provision 2004 c. 5, s. 45(2) by [2011 c. 20 Sch. 8 para. 14\(4\)\(5\)Sch. 25 Pt. 16](#)
- s. 83(1A)-(1C) inserted by [2004 c. 5 s. 45\(2\)](#)
- s. 83(2)-(2B) amendment to earlier affecting provision 2004 c. 5, s. 45(3) by [2011 c. 20 Sch. 8 para. 14\(4\)\(5\)Sch. 25 Pt. 16](#)
- s. 83(2)-(2B) substituted for s. 83(2) by [2004 c. 5 s. 45\(3\)](#)
- s. 83(4) inserted by [2004 c. 5 s. 45\(4\)](#)
- s. 85(1A) inserted by [2004 c. 5 s. 45\(6\)](#)
- s. 93(5)(6) inserted by [2017 c. 20 Sch. 3 para. 6](#)
- s. 94(1)(e) and word inserted by [2023 c. 55 Sch. 9 para. 1\(15\)](#)
- s. 102(1A) inserted by [2023 c. 55 Sch. 6 para. 9\(b\)](#)
- s. 106A(9A) inserted by [2023 c. 55 s. 125](#)
- s. 106ZA inserted by [2016 c. 22 s. 158\(1\)](#)
- s. 106ZB inserted by [2016 c. 22 s. 159\(1\)](#)
- s. 106ZB(2)(a) omitted by [2023 c. 55 s. 130\(3\)\(b\)](#)
- s. 108(1A)(1B) inserted by [2015 c. 7 Sch. 4 para. 15\(4\)](#)
- s. 108(3A) inserted by [2004 c. 5 Sch. 6 para. 6](#)
- s. 108(3B)(ba) inserted by [2015 c. 7 Sch. 4 para. 15\(6\)](#)
- s. 108(3B)(ba) word omitted by [2023 c. 55 Sch. 9 para. 1\(16\)\(d\)\(i\)](#)
- s. 108(3B)(bb) inserted by [2023 c. 55 Sch. 9 para. 1\(16\)\(d\)\(ii\)](#)
- s. 108(3DA) inserted by [2015 c. 7 Sch. 4 para. 15\(7\)](#)
- s. 108(3DB) inserted by [2023 c. 55 Sch. 9 para. 1\(16\)\(e\)](#)
- s. 141(6) inserted by [2017 c. 20 Sch. 3 para. 7](#)
- s. 169(1)(a) words renumbered as s. 169(1)(a) by [2017 c. 20 s. 26\(5\)\(a\)](#)
- s. 169(1)(b) inserted by [2017 c. 20 s. 26\(5\)\(b\)](#)
- s. 170(8BA) inserted by [2017 c. 20 s. 26\(6\)](#)
- s. 171A(2)(za) inserted by [2023 c. 55 s. 117\(2\)\(a\)](#)

- s. 171B(1)(a)(b) substituted for words by 2023 c. 55 s. 115(1)
- s. 171B(2)(a)(b) substituted for words by 2023 c. 55 s. 115(2)
- s. 171E(8) inserted by 2023 c. 55 s. 116(3)
- s. 172ZA inserted by 2023 c. 55 s. 117(3)
- s. 174(2AA)(b) words substituted by 2023 c. 55 s. 113(6)
- s. 176(6) inserted by 2023 c. 55 s. 119(2)
- s. 188(1)(zb) inserted by 2023 c. 55 s. 117(4)(a)
- s. 195(3A) inserted by 2023 c. 55 s. 119(3)
- s. 196(1A) inserted by 2008 c. 29 Sch. 10 para. 8(2)
- s. 208(5A) inserted by 2008 c. 29 Sch. 10 para. 9(2)
- s. 216(2)(a)(b) substituted for words by 2023 c. 55 s. 120(2)(a)
- s. 216(6A) inserted by 2023 c. 55 s. 120(2)(c)
- s. 303(1ZZA) inserted by 2023 asc 3 Sch. 13 para. 87
- s. 303(10A) inserted by 2015 c. 7 Sch. 4 para. 19(3)
- s. 303(12) inserted by 2015 c. 7 Sch. 4 para. 19(4)
- s. 303A(1A)(za) inserted by 2023 c. 55 Sch. 8 para. 7(2)(a)
- s. 303A(9B) inserted by 2023 c. 55 Sch. 8 para. 7(4)
- s. 303A(10)(za) inserted by 2023 c. 55 Sch. 8 para. 7(5)
- s. 303A(12) inserted by 2023 c. 55 Sch. 8 para. 7(6)
- s. 303ZB inserted by 2023 c. 55 s. 134
- s. 314A inserted by 2023 asc 3 Sch. 13 para. 90
- s. 324(1A)(a) words in s. 324(1A) renumbered as s. 324(1A)(a) by 2023 c. 55 Sch. 9 para. 1(20)(a)
- s. 324(1A)(b) and word inserted by 2023 c. 55 Sch. 9 para. 1(20)(b)
- s. 327ZA applied (with modifications) by 1990 c. 10, s. 37 (as amended) by 2023 c. 55 s. 124(7)(a)
- s. 327ZA applied by 1990 c. 9, s. 89(1) (as amended) by 2023 c. 55 s. 124(5)(a)
- s. 327ZA inserted by 2023 c. 55 s. 124(1)
- s. 327ZA modified by 1990 c. 9, s. 89(1ZC) (as inserted) by 2023 c. 55 s. 124(5)(b)
- s. 333(3ZZAA) inserted by 2023 c. 55 Sch. 9 para. 1(21)(b)
- s. 333(3ZB) inserted by 2016 c. 22 s. 159(2)
- s. 333(3ZZA) inserted by 2023 c. 55 Sch. 9 para. 1(21)(a)
- Sch. 1 para. 5(4) inserted by 2023 c. 55 Sch. 17 para. 2(7)(c)
- Sch. 1 para. 7(10)(10A) substituted for Sch. 1 para. 7(10) by 2023 c. 55 Sch. 8 para. 11(2)
- Sch. 4B para. 11(3)-(5) inserted by 2017 c. 20 s. 7
- Sch. 4B para. 8(2)(fa) inserted by 2023 c. 55 s. 99(1)(b)
- Sch. 4B para. 8(2)(ca) inserted by 2023 c. 55 s. 102(2)(a)(ii)
- Sch. 4B para. 8(4A)(4B) inserted by 2023 c. 55 s. 102(2)(b)
- Sch. 4B para. 5(5)(za) inserted by 2023 c. 55 Sch. 6 para. 12(a)
- Sch. 4B para. 8(2)(da) inserted by 2023 c. 55 Sch. 6 para. 12(b)
- Sch. 4B para. 8(2)(ea) substituted for Sch. 4B para. 8(2)(e) by 2023 c. 55 s. 99(1)(a)
- Sch. 7 para. 12(1)-(1C) amendment to earlier affecting provision 2004 c. 5 s. 45(9) by 2011 c. 20 Sch. 8 para. 14(7)
- Sch. 7 para. 12(1)-(1C) substituted for Sch. 7 para. 12(1) by 2004 c. 5 s. 45(9)
- Sch. 7A para. 14(4) inserted by 2023 c. 55 s. 124(3)
- Sch. 9 para. 1(1A) inserted by 2023 c. 55 Sch. 6 para. 13(b)
- Sch. 9A inserted by 2016 c. 22 Sch. 13
- Sch. 13 para. 24A inserted by 2017 c. 20 s. 26(7)