

SCHEDULES

SCHEDULE 16

Section 91

PROCEDURE FOR CERTAIN PLANNING CHALLENGES

Town and Country Planning Act 1990 (c. 8)

- 1 Part 12 of the Town and Country Planning Act 1990 (validity) is amended as follows.
- 2 In section 284 (validity of development plans and certain orders, decisions and directions)—
 - (a) in subsection (1), after paragraph (f) insert “or—
 - (g) a relevant costs order made in connection with an order mentioned in subsection (2) or an action mentioned in subsection (3),”, and
 - (b) after subsection (3) insert—

“(3A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”
- 3 (1) Section 287 (proceedings for questioning validity of development plans and certain schemes and orders) is amended as follows.
 - (2) After subsection (2) insert—

“(2A) An application under this section may not be made without the leave of the High Court.

(2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”
 - (3) After subsection (3) insert—

“(3ZA) An interim order has effect—

 - (a) if made on an application for leave, until the final determination of—
 - (i) the question of whether leave should be granted, or
 - (ii) where leave is granted, the proceedings on any application under this section made with such leave;
 - (b) in any other case, until the proceedings are finally determined.”
 - (4) Omit subsections (3C) and (4).
 - (5) In subsection (5), for “subsection (4)” substitute “subsection (2B)”.
 - (6) After subsection (5) insert—

“(5A) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (2A).”

Status: This is the original version (as it was originally enacted).

- 4 (1) Section 288 (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) If a person is aggrieved by a relevant costs order made in connection with an order or action to which this section applies and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—
- (a) that the relevant costs order is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to the order.”
- (3) In subsection (2)—
- (a) after “subsection (1)” (in the first place) insert “or (1A)”,
- (b) after “applies,” (in the second place) insert “or with any relevant costs order,”, and
- (c) after “subsection (1)” (in the second place) insert “or (1A) (as the case may be)”.
- (4) Omit subsection (3).
- (5) After subsection (4) insert—
- “(4A) An application under this section may not be made without the leave of the High Court.
- (4B) An application for leave for the purposes of subsection (4A) must be made before the end of the period of six weeks beginning with the day after—
- (a) in the case of an application relating to an order under section 97 that takes effect under section 99 without confirmation, the date on which the order takes effect;
- (b) in the case of an application relating to any other order to which this section applies, the date on which the order is confirmed;
- (c) in the case of an application relating to an action to which this section applies, the date on which the action is taken;
- (d) in the case of an application relating to a relevant costs order, the date on which the order is made.
- (4C) When considering whether to grant leave for the purposes of subsection (4A), the High Court may, subject to subsection (6), make an interim order suspending the operation of any order or action the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
- (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (6) In subsection (5)—
- (a) in paragraph (a), for “the order or action” substitute “any order or action”, and
- (b) in paragraph (b), for “the order or action in question” substitute “any such order or action”.

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

(7) For subsection (6) substitute—

“(6) The High Court may not suspend a tree preservation order under subsection (4C) or (5)(a).”

(8) In subsection (7), after “subsection” insert “(4C) or”.

(9) For subsection (9) substitute—

“(9) In this section—

“relevant costs order” has the same meaning as in section 284;

“the relevant requirements”—

(a) 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 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to that order or action;

(b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the relevant costs order.”

(10) After subsection (10) insert—

“(11) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

5 In section 62 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (validity of certain orders and decisions)—

(a) in subsection (1), after paragraph (b) insert “or

(c) a relevant costs order made in connection with any such order or decision,”, and

(b) after subsection (2) insert—

“(2A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”

6 (1) Section 63 of that Act (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.

(2) In subsection (1), for “section 62(1)” substitute “section 62(1)(a) or (b)”.

(3) After subsection (1) insert—

“(1A) If a person is aggrieved by a relevant costs order made in connection with an order or decision mentioned in section 62(1)(a) or (b) and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

(a) that the relevant costs order is not within the powers of this Act, or

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- (b) that any of the relevant requirements have not been complied with in relation to the order.”

(4) In subsection (2)—

- (a) after “subsection (1)” insert “or (1A)”,
- (b) for “such order or decision” substitute “order or decision mentioned in section 62(1)”, and
- (c) for “those grounds” substitute “the grounds mentioned in subsection (1) or (1A) (as the case may be)”.

(5) For subsection (3) substitute—

“(3) An application under this section may not be made without the leave of the High Court.

(3A) An application for leave for the purposes of subsection (3) must be made before the end of the period of six weeks beginning with the day after—

- (a) in the case of an application relating to an order under section 23 that takes effect under section 25 without confirmation, the date on which the order takes effect;
- (b) in the case of an application relating to any other order mentioned in section 62(1)(a), the date on which the order is confirmed;
- (c) in the case of an application relating to a decision mentioned in section 62(1)(b) or a relevant costs order, the date on which the decision or order is made.

(3B) When considering whether to grant leave for the purposes of subsection (3), the High Court may make an interim order suspending the operation of any order or decision the validity of which the person or authority concerned wishes to question, until the final determination of—

- (a) the question of whether leave should be granted, or
- (b) where leave is granted, the proceedings on any application under this section made with such leave.”

(6) In subsection (4)—

- (a) after “this section” insert “(other than an application for leave)”,
- (b) in paragraph (a), for “the order or decision” substitute “any order or decision”, and
- (c) in paragraph (b)(i), for “the order or decision” substitute “any such order or decision”.

(7) For subsection (6) substitute—

“(6) In this section—

“relevant costs order” has the same meaning as in section 62;

“the relevant requirements”—

- (a) in relation to an order or decision mentioned in section 62(1)(a) or (b), means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to the order or decision;
- (b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals

and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the order.”

Planning (Hazardous Substances) Act 1990 (c. 10)

- 7 (1) Section 22 of the Planning (Hazardous Substances) Act 1990 (validity of decisions as to applications) is amended as follows.
- (2) In subsections (1) and (2), omit “within six weeks from the date on which the decision is taken”.
- (3) After subsection (2) insert—
- “(2A) An application under this section may not be made without the leave of the High Court.
- (2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day after the date on which the decision to which the application relates is taken.
- (2C) When considering whether to grant leave for the purposes of subsection (2A), the High Court may by interim order suspend the operation of the decision the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
- (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (4) In subsection (3), after “section” insert “(other than an application for leave)”.

Planning and Compulsory Purchase Act 2004 (c. 5)

- 8 (1) Section 113 of the Planning and Compulsory Purchase Act 2004 (validity of strategies, plans and documents) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) An application may not be made under subsection (3) without the leave of the High Court.
- (3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”
- (3) Omit subsection (4).
- (4) After subsection (5) insert—
- “(5A) An interim order has effect—
- (a) if made on an application for leave, until the final determination of—
- (i) the question of whether leave should be granted, or
- (ii) where leave is granted, the proceedings on any application under this section made with such leave;
- (b) in any other case, until the proceedings are finally determined.”

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

(5) Omit subsection (8).