

Town and Country Planning Act 1990 c. 8

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



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Subjects

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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 [or the Welsh Ministers]¹ 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.

[

(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—

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- (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.

]²

(2) Without prejudice to subsection (1) [or (1A)]³, 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 [or the Welsh Ministers]⁴ to which this section applies, [or with any relevant costs order,]⁵ wish to question the validity of that order or action on any of the grounds mentioned in subsection (1) [or (1A) (as the case may be)]⁶, the authority may make an application to the High Court under this section.

[...]⁷

(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 [or the Welsh Ministers]⁸ as is mentioned in [subsection \(3\)](#) of that section.

[

(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.

]⁹

(5) On any application under this section the High Court—

- (a) may, subject to subsection (6), by interim order suspend the operation of [any order or action]¹⁰, the validity of which is questioned by the application, until the final determination of the proceedings;

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(b) if satisfied that [any such order or action]¹¹ 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) The High Court may not suspend a tree preservation order under subsection (4C) or (5)(a).

] ¹²

(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 [(4C) or]¹³ (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.

(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—

“*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.

] ¹⁴

(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 [or the Welsh Ministers have modified]¹⁵ 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 the Welsh Ministers]¹⁶, or, where the order or notice in question was made or served by [the Secretary of State or the Welsh Ministers]¹⁷, the authority named in the order or notice.

[
(11) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).
] ¹⁸

Notes

- 1 Words inserted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(2\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 2 Added by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(2\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 3 Words inserted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(3\)\(a\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 4 Words inserted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(3\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 5 Words inserted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(3\)\(b\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 6 Words inserted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(3\)\(c\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 7 Repealed by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(4\)](#) (October 26, 2015: repeal has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 8 Words inserted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(4\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 9 Added by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(5\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 10 Words substituted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(6\)\(a\)](#) (October 26, 2015: substitution has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 11 Words substituted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(6\)\(b\)](#) (October 26, 2015: substitution has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 12 Substituted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(7\)](#) (October 26, 2015: substitution has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 13 Words inserted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(8\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))
- 14 Substituted by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(9\)](#) (October 26, 2015: substitution has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))

Notes

- 15 Words substituted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(5\)\(a\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 16 Words inserted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(5\)\(b\)\(i\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 17 Word substituted by Planning (Wales) Act 2015 anaw. 4 [Sch.4 para.16\(5\)\(b\)\(ii\)](#) (March 1, 2016 in relation to developments of national significance and secondary consents; not yet in force otherwise)
- 18 Added by Criminal Justice and Courts Act 2015 c. 2 [Sch.16 para.4\(10\)](#) (October 26, 2015: insertion has effect subject to transitional provisions specified in SI 2015/1778 art.4(a))

Part XII VALIDITY > s. 288 Proceedings for questioning the validity of other orders, decisions and directions.
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