



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART XII

#### VALIDITY

#### **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.

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*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Town and Country Planning Act 1990. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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- (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.
- (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 <sup>M1</sup>Tribunals and Inquiries Act [<sup>F1</sup>1992], 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.

#### Annotations:

#### Amendments (Textual)

- F1** Word in s. 288(9) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para. 25](#)

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

- C1** [S. 288](#) extended (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 22, [Sch. 2 para. 9](#) (3) (with s. 84(5)); [S.I. 1991/2067](#), [art. 3](#) (subject to art. 4)

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Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 13 para. 16(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

Ss. 284-288 modified (1.11.1995) by 1995 c. 25, s. 96, **Sch. 14 para. 9(4)** (with ss. 7(6), 115, 117); S.I. 1995/2765, **art. 2**

S. 288 modified (2.10.1995) by S.I. 1995/2558, **reg. 13**

**C2** S. 288 applied (28.9.2004) by Planning and Compulsory Purchase Act 2004 (c. 5), **ss. 58(3)**, 121 (with s. 111); S.I. 2004/2202, **art. 3** (subject to transitional provisions and savings in art. 4)

**C3** S. 288 modified (W.) (8.1.2010) by The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 (S.I. 2009/3342), **reg. 54**

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### Marginal Citations

**M1** 1992 c. 53.

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

- Act modified by [S.I. 2010/626 art. 10](#)
- Act modified by [S.I. 2011/950 art. 22 Sch. para. 1\(2\) 2-6](#)
- Blanket amendment text amended by [S.I. 2011/1043 art. 3 4](#)
- Blanket amendment text amended by [S.I. 2011/1043 art. 3 6](#)

**Commencement Orders yet to be applied to the Town and Country Planning Act 1990:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2010/101 art. 2-5](#) commences (2008 c. 29)
- [S.I. 2010/321 art. 2](#) commences (2004 c. 5)
- [S.I. 2010/321 art. 3](#) amendment to earlier commencing SI 2006/1061 art. 4
- [S.I. 2010/321 art. 4](#) amendment to earlier commencing SI 2007/1369 art. 3
- [S.I. 2010/566 art. 3](#) commences (2008 c. 29)
- [S.I. 2011/2329 art. 2 3](#) commences (2011 c. 5)