



Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

1972 CHAPTER 52

PART XII

VALIDITY OF PLANNING INSTRUMENTS AND DECISIONS AND PROCEEDINGS RELATING THERETO

233 Proceedings for questioning validity of other orders, decisions and directions.

- (1) If any person—
- (a) is aggrieved by any order to which this section applies and desires to question the validity of that order, on the grounds that the order is not within the powers of this Act, or 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 desires to question the validity of that action, on the grounds that the action is not within the powers of this Act, or that any of the relevant requirements have not been complied with in relation to that action,
- he may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.
- (2) Without prejudice to subsection (1) of this section, 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, desire to question the validity of that order or action on any of the grounds mentioned in subsection (1) of this section, the authority may, within six weeks from the date on which the order is confirmed or the action is taken, as the case may be, make an application to the Court of Session under this section.
- (3) This section applies to any such order as is mentioned in subsection (2) of section 231 of this Act^{F1} and to any such action on the part of the Secretary of State as is mentioned in subsection (3) of the said section 231.

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Section 233. (See end of Document for details)

- (4) On any application under this section the Court of Session—
- (a) may by interim order suspend the operation of the order or action, the validity whereof 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 thereto, may quash that order or action:

Provided that paragraph (a) of this subsection shall not apply to applications questioning the validity of tree preservation orders.

- (5) In relation to a tree preservation order, or to an order made in pursuance of section 61(4) of this Act, the powers conferred on the Court of Session by subsection (4) of this section 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.
- (6) 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.
- (7) 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 ^{M1}Tribunals and Inquiries Act 1971 (or any enactment replaced thereby), or of any order, regulations or rules made under this Act or under that Act (or any such enactment), which are applicable to that order or action, and any reference to the authority directly concerned with any order or action to which this section applies is a reference to the ^{F2} planning authority, and, in relation to any such decision as is mentioned in section 231(3)(i) or (j) of this Act, being a decision confirming the notice in question subject to the substitution of another local authority or statutory undertakers for the ^{F2} planning authority, shall be construed as including a reference to that other local authority or those statutory undertakers.

Textual Amendments

- F1** Words repealed by [Housing and Planning Act 1986 \(c. 63, SIF 123:2\)](#), s. 53(2), **Sch. 12 Pt. IV**
- F2** Word repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 172(2)

Modifications etc. (not altering text)

- C1** Ss. 231-233 extended (1.1.1997) by 1995 c. 25, s. 96, **Sch. 13 para. 16(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
- C2** Ss. 231-233 modified (1.1.1997) by 1995 c. 25, s. 96, **Sch. 14 para. 9(6)** (with ss. 7(6), 115, 117); S.I. 1996/2857, **art. 2**
- C3** S. 233(1)(b)(2) modified by S.I. 1988/1221, **reg. 31**
- C4** S. 108(2), 117-119, 121, 138, 154(3), 170-172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216-230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1-3, Sch. 18 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
- C5** S. 202(3), 205, 211, 212, 214-230, 233(7), 242, 266(6)(b), 275(2), Sch. 8, Sch. 17 paras. 1-3 amended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), Sch. 16 para. 1(1)(xxiii) (with s. 112(3), Sch. 17 paras. 33, **35(1)**)
- C6** S. 233(7) extended by [Civil Aviation Act 1982 \(c. 16\)](#), **Sch. 2 para. 4**
 S. 233(7) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.
Changes to legislation: There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Section 233. (See end of Document for details)

Marginal Citations

M1 1971 c. 62.

Status:

Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Section 233.