



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART XI

VALIDITY

238 Proceedings for questioning validity of development plans and certain schemes and orders.

- (1) If any person aggrieved by a structure plan or a local plan or by any alteration, repeal or replacement of any such plan desires to question the validity of the plan or, as the case may be, the alteration, repeal or replacement on the ground—
- (a) that it is not within the powers conferred by Part II, or
 - (b) that any requirement of that Part or of any regulations made under it has not been complied with in relation to the approval or adoption of the plan or, as the case may be, its alteration, repeal or replacement,
- he may make an application to the Court of Session under this section.
- (2) On any application under this section the Court of Session—
- (a) may by interim order wholly or in part suspend the operation of the plan or, as the case may be, the alteration, repeal or replacement, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
 - (b) if satisfied that the plan or, as the case may be, the alteration, repeal or replacement is wholly or to any extent outside the powers conferred by Part II, or that the interests of the applicant have been substantially prejudiced by the failure to comply with any requirement of that Part or of any regulations made under it, may wholly or in part quash the plan or, as the case may be, the alteration, repeal or replacement either generally or in so far as it affects any property of the applicant.

Status: Point in time view as at 27/05/1997. This version of this provision has been superseded.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 238 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subsections (1) and (2) shall apply, subject to any necessary modifications, to a simplified planning zone scheme or an alteration of such a scheme or to an order under section 202, 203, 206, 207, 208 or 230 as they apply to any plan or an alteration, repeal or replacement there mentioned.
- (4) An application under this section must be made within 6 weeks from the relevant date.
- (5) For the purposes of subsection (4) the relevant date is—
- (a) in the case of an application in respect of such a plan as is mentioned in subsection (1), the date of the publication of the first notice of the approval or adoption of the plan, alteration, repeal or replacement required by regulations under section 21;
 - (b) in the case of an application by virtue of subsection (3) in respect of a simplified planning zone scheme or an alteration of such a scheme, the date of the publication of the first notice of the approval or adoption of the scheme or alteration required by regulations under paragraph 12 of Schedule 5;
 - (c) in the case of an application by virtue of subsection (3) in respect of an order under section 202 or 206(1)(a), the date on which the notice required by paragraph 1(7) of Schedule 16 is first published;
 - (d) in the case of an application by virtue of subsection (3) in respect of an order under section 203, 206(1)(b), 207 or 208, the date on which the notice required by paragraph 11 of Schedule 16 is first published in accordance with that paragraph; and
 - (e) in the case of an application by virtue of subsection (3) in respect of an order under section 230, the date on which the notice required by subsection (6) of that section is first published;
- but subject, in the case of those orders made under sections 202, 203 and 230, to section 241.
- (6) In their application to simplified planning zone schemes and their alteration, subsections (1) and (2) shall have effect as if they referred to Part III instead of Part II.

Status:

Point in time view as at 27/05/1997. This version of this provision has been superseded.

Changes to legislation:

Town and Country Planning (Scotland) Act 1997, Section 238 is up to date with all changes known to be in force on or before 12 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.