



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER VI

MISCELLANEOUS AND SUPPLEMENTAL

Validity of instruments, decisions and proceedings

58 Proceedings for questioning validity of other orders, decisions and directions

- (1) If any person is aggrieved by any such order or decision as is mentioned in section 57(1) and wishes to question its validity on the grounds—
 - (a) that it is not within the powers of this Act, or
 - (b) that any of the relevant requirements have not been complied with in relation to it,he may make an application to the Court of Session under this section.
- (2) Without prejudice to subsection (1), if the authority directly concerned with any such order or decision wish to question its validity on any of those grounds, the authority may make an application to the Court of Session under this section.
- (3) An application under this section must be made within 6 weeks from the date on which the order is confirmed (or, in the case of an order under section 21 which takes effect under section 23 without confirmation, the date on which it takes effect) or, as the case may be, the date on which the decision is made.
- (4) On any application under this section the Court of Session—

Status: This is the original version (as it was originally enacted).

- (a) may by interim order suspend the operation of the order or decision the validity of which is questioned by the application, until the final determination of the proceedings, and
 - (b) if satisfied—
 - (i) that the order or decision is not within the powers of this Act, or
 - (ii) 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 decision.
- (5) 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.
- (6) In this section “the relevant requirements”, in relation to any order or decision, 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 decision.
- (7) For the purposes of subsection (2) the authority directly concerned with any order or decision is—
- (a) the planning authority, and
 - (b) in relation to any such decision as is mentioned in section 57(2)(b) where the Secretary of State has modified the notice wholly or in part by substituting another planning authority or statutory undertakers for the planning authority, also that authority or those statutory undertakers.