



# Town and Country Planning (Scotland) Act 1972

## 1972 CHAPTER 52

### PART V

#### ENFORCEMENT OF CONTROL UNDER PARTS III AND IV

##### *Development requiring planning permission*

#### **91 Grant of certificate by Secretary of State on referred application or appeal against refusal**

- (1) The Secretary of State may give directions requiring applications for established use certificates to be referred to him instead of being dealt with by local planning authorities; and, on any such application being referred to him in accordance with such directions, section 90(4) of this Act shall apply in relation to the Secretary of State as it applies in relation to the local planning authority in the case of an application determined by them.
- (2) Where an application is made to a local planning authority for an established use certificate and is refused, or is refused in part, the applicant may by notice under this subsection appeal to the Secretary of State; and on any such appeal the Secretary of State shall—
  - (a) if and so far as he is satisfied that the authority's refusal is not well-founded, grant to the appellant an established use certificate accordingly or, as the case may be, modify the certificate granted by the authority on the application; and
  - (b) if and so far as he is satisfied that the authority's refusal is well-founded, dismiss the appeal.
- (3) On an application referred to him under subsection (1) of this section or on an appeal to him under subsection (2) of this section, the Secretary of State may, in respect of any use of land for which an established use certificate is not granted (either by him or by the local planning authority), grant planning permission for that use or, as the

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*Status: This is the original version (as it was originally enacted).*

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case may be, for the continuance of that use without complying with some condition subject to which a previous planning permission was granted.

- (4) Before determining an application or appeal under this section the Secretary of State shall, if either the applicant or appellant (as the case may be) or the local planning authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) In the case of any use of land for which the Secretary of State has power to grant planning permission under this section, the applicant or appellant shall be deemed to have made an application for such planning permission; and any planning permission so granted shall be treated as granted on the said application.
- (6) Subject to section 279 of this Act, Schedule 7 to this Act applies to appeals under this section.