

SCHEDULES

SCHEDULE 3

Section 127.

INQUIRIES INTO FITNESS OF HOLDERS OF CERTIFICATES AND DELIVERY UP AND CUSTODY OF CERTIFICATES IN CONNECTION WITH PROSECUTIONS AND INQUIRIES

PART I

INQUIRIES INTO FITNESS OF HOLDERS OF CERTIFICATES

- 1 The tribunal holding an inquiry under section 127 shall consist of a person or persons appointed by^[F1] the Executive], and may conduct the inquiry either alone or with the assistance of an assessor or assessors so appointed.

F1 SR 1999/150

- 2 ^[F2]the Executive] may pay to the person or persons constituting the tribunal and to any assessor appointed to assist the tribunal such remuneration and allowances as the Ministry with the approval of the Ministry of Finance^{F3} may determine.

F2 SR 1999/150

F3 functions transf. to D/CS, SR 1976/281

- 3 The inquiry shall be public and shall be held at such place as^[F4] the Executive] may appoint.

F4 SR 1999/150

- 4 ^[F5]the Executive] shall, before the beginning of the inquiry, furnish to the person whose fitness to continue to hold a certificate is to be inquired into a statement of the case on which the inquiry is instituted.

F5 SR 1999/150

- 5 The said person may appear at the inquiry either in person or by counsel, solicitor or agent, and may give evidence and call such witnesses as he thinks fit.

- 6 At the conclusion of the inquiry the tribunal shall send to^[F6] the Executive] a report containing a full statement of the case and the opinion of the tribunal thereon and such report of, or extracts from, the evidence as the tribunal thinks fit.

F6 SR 1999/150

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the
Mines Act (Northern Ireland) 1969, SCHEDULE 3. (See end of Document for details)

- 7 The tribunal shall, for the purposes of the inquiry, have power—
- (a) to enter and inspect any place or building the entry or inspection of which appears to the tribunal requisite for the said purposes;
 - (b) by summons signed by the tribunal to require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any documents in his custody or under his control which the tribunal considers it necessary for the purposes of the inquiry to examine;
 - (c) to require a person appearing at the inquiry to furnish to any other person appearing thereat, on payment of such fee, if any, as the tribunal thinks fit, a copy of any document offered, or proposed to be offered, in evidence by the first-mentioned person;
 - (d) to take evidence on oath, and for that purpose to administer oaths, or, instead of administering an oath, to require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined;
 - (e) to adjourn the inquiry from time to time; and
 - (f) subject to sub-paragraphs (a) to (e), to regulate the procedure of the tribunal.
- 8 A person attending as a witness before the tribunal shall be entitled to be paid by^{F7} the Executive] such travelling and other allowances, including compensation for loss of remunerative time, as the Ministry with the approval of the Ministry of Finance^{F8} may determine.

F7	SR 1999/150
F8	functions transf. to D/CS, SR 1976/281

- 9 The tribunal may make such orders as it thinks fit respecting the payment of the costs and expenses of the inquiry and any such order shall, on the application of any person entitled to the benefit thereof be enforceable by a court of summary jurisdiction as if the amount ordered to be paid were a sum adjudged to be paid by an order of that court.
- 10 If a person—
- (a) without reasonable excuse (proof whereof shall lie on him) fails, after having the expenses, if any, to which he is entitled tendered to him, to comply with any summons or requisition of the tribunal; or
 - (b) does any other thing which would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court;
he shall be guilty of an offence.

PART II

DELIVERY UP AND CUSTODY OF CERTIFICATES IN CONNECTION WITH PROSECUTIONS AND INQUIRIES

- 11 The holder of any such certificate as is mentioned in section 127 may, after notice of intention to make an application under subsection (1) of that section has been duly served on him, be required by the court dealing with a complaint or trying

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an indictment for an offence alleged to have been committed by him, or may be required by a tribunal making inquiry under that section, to deliver up his certificate to the court or, as the case may be, the tribunal at the hearing.

12 A certificate so delivered up may be retained by the court or tribunal until the conclusion of the proceedings, except that a certificate delivered up to the court shall be returned to the holder thereof on his making an election under section 127(2)(b).

13 Where the court or tribunal cancels or suspends a certificate it shall, at the conclusion of the proceedings, send^[F9] the Executive] notice thereof and shall also send^[F9] the Executive] the certificate for retention by it.

F9 SR 1999/150

14 Where on an appeal (whether by way of case stated or otherwise) the conviction of the holder of the certificate is quashed or the cancellation or suspension thereof is quashed or varied, the solicitor for the prosecution shall send notice thereof to^[F10] the Executive]; and where on an appeal by way of case stated the Court of Appeal remits the matter to a court of summary jurisdiction or a county court, notice of the order of the court on the remission shall be sent to^[F10] the Executive] by the court of summary jurisdiction or county court, as the case may be.

F10 SR 1999/150

15 Where a certificate has been sent to^[F11] the Executive] under paragraph 13,^[F11] the Executive] shall—

- (a) on receipt of a notice that the conviction of the holder thereof, or the cancellation or suspension thereof, has been quashed; or
- (b) on the expiration of any period for which the certificate stands suspended (whether after conviction or appeal);
return the certificate to the holder.

F11 SR 1999/150

16 For the purposes of this Part, the bringing of proceedings before the High Court to quash a conviction by order of certiorari shall be deemed to be an appeal.

Status:

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Changes to legislation:

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