



# Mines Act (Northern Ireland) 1969

## 1969 CHAPTER 6

### PART X

#### GRANT, CANCELLATION AND SUSPENSION OF CERTIFICATES

#### 127 Cancellation or suspension of certificates.

- (1) On the conviction of an offence under this Act of the holder of a certificate granted by<sup>[F1</sup> the Executive] under this Act, the court by which he is sentenced may, on an application for that purpose made on behalf of<sup>[F1</sup> the Executive], cancel or suspend the certificate in addition to or instead of imposing any other penalty to which the person convicted may be liable if, having regard to the nature of the offence and the circumstances in which it was committed, the court is of opinion that that person is unfit to continue to hold the certificate; and where a certificate held by a person is cancelled or suspended under this subsection, he shall have the same right of appeal as if the cancellation or suspension were a sentence passed by the court on his conviction.
- (2) A court shall not exercise the power conferred by subsection (1) unless—
  - (a) notice of intention to make an application thereunder has been served on the person convicted at the same time as the service or execution of the summons or warrant issued in pursuance of the complaint charging him with the offence of which he is convicted; and
  - (b) the said person has, on pleading to the charge, been given an opportunity to elect, but has not elected, to have the question of the cancellation or suspension of his certificate inquired into under subsection (3).
- (3) <sup>[F1</sup>the Executive]
  - (a) may, in the case of a person who is the holder of any such certificate as aforesaid, where it appears to<sup>[F1</sup> the Executive] that there is reason to believe that that person is, by reason of incompetence or gross negligence or misconduct in the performance of duties of his with respect to a mine, unfit to continue to hold the certificate; and
  - (b) shall, in the case of a person who is the holder of such a certificate and has made an election under subsection (2)( b),

*Status: Point in time view as at 01/01/2006. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Mines Act (Northern Ireland) 1969, Section 127. (See end of Document for details)*

cause inquiry to be made into the question whether or not he is fit to continue to hold the certificate by a tribunal which shall have power to cancel or suspend the certificate if it finds that by reason aforesaid or, as the case may be, that having regard to the offence and the circumstances in which it was committed, he is unfit to continue to hold the certificate.

- (4) The provisions of Part I of Schedule 3 shall have effect with respect to the constitution and procedure of the tribunal holding an inquiry under subsection (3) and with respect to the holding of the inquiry.
- (5) Where, under subsection (1), an application is made to a court for the cancellation or suspension of a certificate and the holder does not elect under subsection (2)( b) to have the question of the cancellation or suspension inquired into under subsection (3), no inquiry into his conduct shall be held by a tribunal under this section on the same grounds as those considered by the court; and where an inquiry is held by a tribunal under this section into the conduct of the holder of a certificate, no application to a court for the cancellation or suspension of the certificate shall be made under subsection (1) on the same grounds as those considered at the inquiry.
- (6) [<sup>F1</sup>the Executive] may at any time, if it is shown to [<sup>F1</sup> the Executive] to be just so to do, restore a certificate cancelled under this section or shorten the period for which a certificate is suspended thereunder.
- (7) A certificate suspended under this section shall, during the period of suspension, be of no effect.
- (8) The provisions of Part II of Schedule 3 shall have effect with respect to the delivery up of a certificate to a court or tribunal and with respect to the subsequent proceedings with respect to a certificate so delivered up.
- (9) Notwithstanding anything contained in the foregoing provisions of this section, when any certificate granted to any person under section 147 of the Mines and Quarries Act 1954 or any enactment repealed by that Act is cancelled or suspended, [<sup>F1</sup> the Executive] may cancel or in like manner suspend any certificate granted to that person under section 126.

<b>F1</b> SR 1999/150
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