

SCHEDULES

THIRD SCHEDULE

Section 150.

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 one hundred and fifty of this Act shall consist of a person or persons appointed by the Minister, and may conduct the inquiry either alone or with the assistance of an assessor or assessors so appointed.

Modifications etc. (not altering text)

C1 Sch. 3 para. 1 amended by Tribunals and Inquiries Act 1971 (c. 62), s. 7(4), Sch. 1 para. 16

- 2 [^{F1}The Health and Safety Executive] may pay to the persons constituting the tribunal and to any assessor appointed to assist the tribunal such remuneration and allowances as the Minister may, with the approval of the Treasury, determine.

Textual Amendments

F1 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 3 The inquiry shall be public and shall be held at such place as [^{F2}the Health and Safety Executive] may appoint.

Textual Amendments

F2 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 4 [^{F3}The Health and Safety 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.

Textual Amendments

F3 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 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.

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Changes to legislation: There are currently no known outstanding effects for the
Mines and Quarries Act 1954, THIRD SCHEDULE. (See end of Document for details)

- 6 At the conclusion of the inquiry the tribunal shall send to [^{F4}the Health and Safety 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.

Textual Amendments

F4 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 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 the foregoing sub-paragraphs, to regulate the procedure of the tribunal.
- 8 A person attending as a witness before the tribunal shall be entitled to be paid by [^{F5}the Health and Safety Executive] such expenses as would be allowed to a witness attending on subpoena before a court of record, and any dispute as to the amount to be so allowed shall be referred by the tribunal to a master of the Supreme Court who, on request signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

Textual Amendments

F5 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 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 magistrates' court 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;

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the tribunal may, by instrument signed by it, certify the offence of that person to the High Court or, in Scotland, the Court of Session, and the High Court or Court of Session may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court or, as the case may be, the Court of Session.

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 one hundred and fifty of this Act may, after notice of intention to make an application under subsection (1) of the said section one hundred and fifty has been duly served on him, be required by the court dealing with an information or trying an indictment for an offence alleged to have been committed by him, or may be required by a tribunal making inquiry under the said section one hundred and fifty, 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:
Provided that a certificate delivered up to the court shall be returned to the holder thereof on his making an election under paragraph (b) of the proviso to subsection (1) of the said section one hundred and fifty.
- 13 Where the court or tribunal cancels or suspends a certificate it shall, at the conclusion of the proceedings, send [^{F6}the Health and Safety Executive] notice thereof and shall also send [^{F6}the Executive] the certificate for retention by [^{F6}the Executive].

Textual Amendments

F6 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

- 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 court by which the conviction is quashed or the appeal is allowed shall send notice thereof to [^{F7}the Health and Safety Executive]:
Provided that where on an appeal by way of case stated the High Court remits the matter to a magistrates' court or [^{F8}the Crown Court], notice of the order of the court on the remission shall be sent to [^{F7}the Health and Safety Executive] by the magistrates' court or [^{F8}the Crown Court], as the case may be.

Textual Amendments

F7 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

F8 Words substituted by virtue of Courts Act 1971 (c. 23), Sch. 8 para. 2

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- 15 Where a certificate has been sent to [^{F9}the Health and Safety Executive] under paragraph 13 of this Schedule [^{F9}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.

Textual Amendments

F9 Words substituted by virtue of S.I. 1974/2013, Sch. 2 para. 3

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

PART III

MODIFICATIONS OF PARTS I AND II FOR THE PURPOSES OF THEIR APPLICATION TO SCOTLAND

- 17 In the application of this Schedule to Scotland—
- (a) for references to a master of the Supreme Court, to a witness attending on subpoena before a court of record, to a summons and to an information there shall be respectively substituted references to the Auditor of the Court of Session, to a witness attending on citation the High Court of Justiciary, to an order and to a summary complaint;
 - (b) an order under paragraph 9 of this Schedule may be recorded in the Books of Council and Session for execution and may be enforced accordingly.

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Changes to legislation:

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