



Mines and Quarries Act 1954

1954 CHAPTER 70

PART XII

GRANT, CANCELLATION AND SUSPENSION OF CERTIFICATES

147 Grant of certificates

- (1) The first-class and second-class certificates of competency referred to in the foregoing provisions of this Act shall be granted by the Minister on the recommendation of the Mining Qualifications Board constituted under the next following section.
- (2) If any certificate which by or by virtue of this Act is to be granted by the Minister on the recommendation of the said Board is defaced, lost or destroyed, the Minister may, on payment of such fee (if any) as he may, with the approval of the Treasury, determine and on such terms as to evidence as he thinks fit (and, in a case in which the certificate is defaced, on the surrender thereof) issue a duplicate of the certificate.

148 The Mining Qualifications Board

- (1) There shall be a Board, to be called the Mining Qualifications Board (in this and the next following section referred to as " the Board ") which shall have the duty of ascertaining the fitness of candidates for such certificates as by or by virtue of this Act are to be granted on their recommendation.
- (2) The Board shall consist of a chairman and not less than seven nor more than ten other members appointed by the Minister, who shall include persons appearing to him to have experience respectively of mining, education and administration:

Provided that during any period during which the holding of a certificate granted on the recommendation of the Board is a qualification prescribed by regulations having effect by virtue of Part IV of this Act, the maximum number of the members of the Board, other than the chairman, shall be twelve instead of ten, and of the members of the Board two shall be persons appearing to the Minister to have experience in quarrying.

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- (3) Every member of the Board shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment:

Provided that—

- (a) no appointment or re-appointment of a member of the Board shall be for a term exceeding five years ;
 - (b) a member of the Board may at any time by notice in writing to the Minister resign his office.
- (4) The Minister may pay to the chairman of the Board such remuneration and to all the members of the Board such allowances as he may, with the approval of the Treasury, determine.
- (5) The Board may act notwithstanding a vacancy amongst the members thereof.
- (6) The procedure of the Board and the quorum thereof shall be such as may be specified in rules made by them, but rules under this subsection shall be of no effect unless they are approved by the Minister.
- (7) The expenses of the Board (including any remuneration or allowances payable to examiners appointed by them) shall be defrayed by the Minister.

149 Qualifications for grant of certificates

- (1) The Board shall make rules specifying the qualifications required of persons in order for them to be recommended for the grant of certificates which by or by virtue of this Act are to be granted by the Minister on the Board's recommendation and the manner in which the possession of such qualifications is to be ascertained and (where the rules provide for the ascertainment of the possession of qualifications by means of an examination held by the Board) specifying particulars of the examination.
- (2) The said rules may not only specify subjects in which proficiency is required and the degree of proficiency required in each subject, but may also require a person who seeks the grant of any such certificate as aforesaid—
- (a) to have attained, before entering his name for any such examination as aforesaid or before being recommended for the grant of the certificate, such age as may be specified in the rules ;
 - (b) to have such practical experience of such matters as may be so specified ;
 - (c) to have attended such courses of instruction as may be so specified;
 - (d) to be of good character.
- (3) The said rules may provide for the granting of exemptions from any provisions thereof relating to the undergoing of examinations, the possession of practical experience and the attendance at courses of instruction in such cases as may be specified in the rules.
- (4) Examinations the holding of which is provided for by rules under this section shall be held at such times and places as the Board may determine and shall be conducted in accordance with rules made by them; and the Board may (subject to the approval of the Minister as to number) appoint examiners for the purposes of such examinations and pay them such remuneration and allowances as the Board may, with the approval of the Minister and the Treasury, determine.
- (5) Rules under this section shall be of no effect unless they are approved by the Minister.

- (6) There shall be payable to the Board by persons who seek the grant of such certificates as are mentioned in subsection (1) of this section such fees as may be specified in an order made by the Minister with the approval of the Treasury, and any fees received by the Board under this subsection shall be paid by them to the Minister.

150 Cancellation or suspension of certificates

- (1) On the conviction of an offence under this Act of the holder of a certificate granted by the Minister under or by virtue of this Act, the court by which he is convicted may, on an application for that purpose made on behalf of the Minister, 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:

Provided that the court shall not exercise the power conferred by this subsection 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 information 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) of this section.
- (2) Where, under the foregoing subsection, a court cancels or suspends a certificate held by a person, he shall have the same right of appeal as if the cancellation or suspension were a sentence passed by the court on his conviction.
- (3) The Minister may, in the case of a person who is the holder of any such certificate as aforesaid with respect to whom a representation is made to the Minister by an inspector or otherwise 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 or quarry, unfit to continue to hold the certificate, and shall, in the case of a person who is the holder of such a certificate and has made an election under paragraph (b) of the proviso to subsection (1) of this section, 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 the Third Schedule to this Act shall have effect with respect to the constitution and procedure of the tribunal holding an inquiry under the last foregoing subsection and with respect to the holding of the inquiry.
- (5) Where, under subsection (1) of this section, an application is made to a court for the cancellation or suspension of a certificate and the holder does not elect under paragraph (b) of the proviso to that subsection to have the question of the cancellation or suspension inquired into under subsection (3) of this section, 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

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cancellation or suspension of the certificate shall be made under subsection (1) of this section on the same grounds as those considered at the inquiry.

- (6) The Minister may at any time, if it is shown to him 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 the Third Schedule to this Act 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, and the provisions of Part III of that Schedule shall have effect for the purposes of the application to Scotland of Parts I and II thereof.
- (9) This section shall in its application to Scotland have effect as if in paragraph (a) of the proviso to subsection (1) for the words " or execution of the summons or warrant issued in pursuance of the information " there were substituted the words " of the complaint or indictment ".