



Law Society  
of Scotland

# Written evidence

## Miners' Strike (Pardons) (Scotland) Bill

January 2022



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Parliament's Equalities, Human Rights and Civil Justice Committee's Stage 1 consideration<sup>1</sup> on the Miners' Strike (Pardons) (Scotland) Bill (the Bill)<sup>2</sup>. The Committee has the following comments to put forward for consideration.

## General comments

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In June 2021 we responded to the Scottish Government Consultation – Miners' Strike 1984/85 Pardon<sup>3</sup>. We reiterate our comments as set out in that response and welcome the opportunity to consider and respond to the call for evidence on the Bill by the Scottish Government. We understand that that evidence is also sought from affected individuals and representative groups.

The Bill aims to provide an automatic pardon for miners who were convicted of certain offences relating to the 1984-1985 miners' strikes.

We recognise that this Bill has been prepared in response to the Independent Review of the impact on communities of the policing of the miner's strike 1984-85<sup>4</sup>. This report acknowledged the consequences to individuals and communities following industrial action by National Union of Mineworkers between 12 March 1984 and 3 March 1985. This era has left divisive and long-lasting impacts upon individuals, their families and the communities involved. Since that time there have been questions raised about political interference, policing, fairness and how the courts dealt with miners who were accused of crimes resulting from the strikes.

The Bill comprises of 6 sections, where the specific conditions for a pardon are set out in sections 1 and 2.

<sup>1</sup> [Overview | Scottish Parliament Website](#)

<sup>2</sup> [Bill as Introduced \(parliament.scot\)](#)

<sup>3</sup> [2021-06-04-crim-miners-strike-pardon.pdf \(lawscot.org.uk\)](#)

<sup>4</sup> [independent-review-impact-communities-policing-miners-strike-1984-85.pdf](#)

Section 1 sets out the timescale to secure a pardon where the conduct of the offence occurred between 12 March 1985 and 3 March 1985.

Section 1 also lists the criteria that a miner must meet in order to qualify for a pardon being either condition A or condition B.

Condition A specifies that the conduct must have occurred while the miner was participating in a picket, demonstration or other similar gathering supporting the miners' strike and occurred during the miner's participation in that picket, demonstration or other similar gathering.

Condition B specifies that the conduct must have occurred while the miner was travelling to participate in, or travelling from a picket, demonstration or other similar gathering. Or alternatively whether the conduct was related to the miner's intended participation or actual participation in the picket demonstration or other similar gathering.

Section 2 of the Bill defines the convictions which will secure a pardon.

These offences are

- Breach of the peace
- Breach of bail conditions under Section 3 of the Bail etc. (Scotland) Act 1980
- Obstructing police etc. under Section 41(1)(a) of the Police (Scotland) Act 1967

Section 3 of the Bill confirms that a pardon will not

- Affect any conviction or sentence,
- Give rise to any right or entitlement or liability, or
- Affect the Royal prerogative of mercy.

The committee have the following comments to put forward for consideration.

## Consultation questions

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### **Question 1 - Whether the legislation is necessary or whether an alternative approach should be considered.**

The Independent Review of the impact on communities of the policing of the miner's strike 1984-85<sup>5</sup> published in October 2020 recommended that the Scottish Government introduce a pardon by act of Parliament for men convicted of matters related to the strike. The Scottish Government accepted the recommendation. We welcome the clarification contained in the bill which sets out the relevant dates and

<sup>5</sup> [independent-review-impact-communities-policing-miners-strike-1984-85.pdf](#)

offences which will secure a pardon.

The language in Section 1 of the Bill referring to “other similar gathering” is vague. We are of the view that ambiguous language and phraseology undermines the purpose of the Bill and could possibly lead miners and/or their families to mistakenly believe that they have been pardoned. What does “other similar gathering” actually mean? Clarification in respect of this phraseology would be welcomed.

We also welcome clarification in response to the reference in Section 1 of the Bill which relates to travelling to or from a picket, demonstration or other similar gathering. We note that this specific wording was also contained in Section 2 (2) of the Offensive Behaviour at Football & Threatening Communications (Scotland) Act 2012<sup>6</sup>, now repealed<sup>7</sup>. We set out our deep concerns then<sup>8</sup> that the phraseology was open to wide interpretation and may have been difficult to enforce, ultimately leading to challenges within the courts system.

## **Question 2 - Your views on Section 1 of the Bill which limits the pardon to picketing/demonstration and connected travel.**

Please see above.

## **Question 3 - Your views on Section 2 of the Bill which details the range of offences which are covered by the pardon.**

We note that an estimated total of 1,350 miners were arrested for public disorder offences in Scotland relating to the miners’ strikes. This led to approximately 470 court cases with a conviction rate of 85%. It is however noted that no robust historical information exists to provide an accurate figure of former miners who are likely to be eligible for a pardon<sup>9</sup>.

We note that Section 3 of the Bill specifically stresses that a pardon will not affect any conviction or sentence, nor will it give rise to any right or entitlement or liability. Given that pardons are ordinarily issued in order to relieve a person of some or all the legal consequences arising from a criminal conviction, which includes any impact on employment, travel, education, housing, jury service, insurance, adoption or public service; we would welcome clarity on the impact that a pardon would have on those affected several decades on.

## **Question 4 - Whether previous or subsequent convictions should disqualify a miner from receiving a pardon.**

We are of the view that this is a policy decision for the Scottish Government.

<sup>6</sup> [Offensive Behaviour at Football and Threatening Communications \(Scotland\) Act 2012 \(legislation.gov.uk\)](#)

<sup>7</sup> [Offensive Behaviour at Football and Threatening Communications \(Repeal\) \(Scotland\) Act 2018 \(legislation.gov.uk\)](#)

<sup>8</sup> [OB3. Law Society of Scotland.pdf \(parliament.scot\)](#)

<sup>9</sup> [Miners' Strike \(Pardons\)\(Scotland\) Bill 2021 | Scottish Parliament](#)

## Question 5 - Any other comments you have regarding the Bill

We would reiterate that those affected will not need to apply for a pardon. The process needs to be clearly publicised and specifically targeted to the right communities. Careful thought should be given as to how to manage this properly. Legal advice and assistance should also be made available to those affected (and their families) given the time that has elapsed, to help them understand whether they meet the relevant criteria but also to explain the effect of a pardon on their criminal record.<sup>10</sup>

**For further information, please contact:**

Ann Marie Partridge

Policy Executive

Law Society of Scotland

DD: 0131 476 8206

[AnnMariePartridge@lawscot.org.uk](mailto:AnnMariePartridge@lawscot.org.uk)

<sup>10</sup> [2021-06-04-crim-miners-strike-pardon.pdf \(lawscot.org.uk\)](#)