

# **MINERS' STRIKE (PARDONS) (SCOTLAND) BILL**

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## **POLICY MEMORANDUM**

### **INTRODUCTION**

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Miners' Strike (Pardons) (Scotland) Bill ("the Bill") introduced in the Scottish Parliament on 27 October 2021.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 5-EN);
  - a Financial Memorandum (SP Bill 5-FM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 5-LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **POLICY OBJECTIVES OF THE BILL**

4. The miners' strike of 1984/85 ('the strike') is recognised as one of the most bitter and divisive industrial disputes in living memory with many contesting memories and accounts of the events that took place. The dispute related to the national concerted stoppage of work led by the National Union of Mineworkers (NUM) with the intention of preventing pit closures across the United Kingdom. The impact of the strike on individuals and former mining communities continues to this day, more than three decades later.
5. The Scottish Government's vision for a just, safe and resilient Scotland identifies the need to live in safe, cohesive and resilient communities as a priority outcome. In 2018, the Scottish Government commissioned an independent review<sup>1</sup> led by John Scott QC into the impact of policing on affected communities during the strike. The purpose of the review was to provide an opportunity to those who were affected by the strike to share their experiences as a means to aid understanding and reconciliation.

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<sup>1</sup> [Ministerial statement on the Government's plans for a review of the impact of policing on affected communities in Scotland during the miners' strike.](#)

6. The independent review group (IRG) considered a substantial amount of evidence including UK Government Cabinet papers and files, and various academic papers and past reports on the strike. It also drew heavily from the powerful testimonies heard during public engagement events held in former mining communities, as well as written submissions from a broad range of interests. Those providing evidence included relevant stakeholder organisations as well as miners and their families, retired police officers, local councillors, academics, journalists, and members of the public.

7. The testimony provided by former miners, police officers and mining communities was highlighted as having been particularly important to the review group's understanding of the strike, the policing of strike activity and the impact of this on mining communities. In terms of lessons learned, the review highlighted a number of issues relating to public confidence in policing and the importance of independence, transparency, scrutiny, and a local focus to this activity. However, the report also highlighted the very particular set of circumstances surrounding the strike and the fact that policing had moved on considerably over the past 35 years.

8. In its report<sup>2</sup>, the IRG made a single recommendation that the Scottish Government should bring forward legislation to pardon miners convicted of certain offences relating to the strike subject to establishing qualifying criteria. The intention of this recommendation was to provide redress for miners who suffered disproportionate consequences for taking part in the strike. The report indicated that a positive step should be taken to recognise this, and that there was a moral responsibility on the State to provide something proportionate back to the miners to aid reconciliation.

9. In October 2020, the Scottish Government announced<sup>3</sup> that it had accepted in principle the review's single recommendation recognising the intention of the pardon was to both acknowledge the disproportionate impact arising from miners being prosecuted and convicted during the strike - such as the loss of their employment - and to recognise the exceptional circumstances that gave rise to the former miners suffering hardship and the loss of their good name through their participation in the strike.

10. In taking forward the single recommendation, the Scottish Government indicated that careful consideration should be given to the qualifying criteria that might apply to the pardon. This was to ensure that the rationale for any such criteria was informed by the views of stakeholders and was both reasonable and ethical.

11. The Bill will contribute towards the realisation of the Scottish Government's vision for justice of "a just, safe and resilient Scotland". The pardon should however not be considered as a criticism of how the strike was policed. The Scottish Government recognises that the strike was divisive in many ways, with miners and police officers finding themselves in extremely challenging situations - and with police and community relationships coming under unprecedented strain. The pardon presents an opportunity now to bring reconciliation between those who were

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<sup>2</sup> [Policing of the miners' strike 1984-1985 - impact on communities: independent review](#)

<sup>3</sup> [Announcement by the Cabinet Secretary for Justice on 28 October 2020](#)

upholding the law in circumstances of a scale which they had never encountered before - and to those who were fighting to protect their jobs, their way of life, and their communities.

12. The policy intention of the Bill is that the effect of the pardon is intended to be symbolic and collective. The pardon symbolises a desire for truth and reconciliation, following the decades of hurt, anger and misconceptions generated by one of the most bitter and divisive industrial disputes in living memory. It is recognised that many miners suffered disproportionate consequences for taking part in the strike and the pardon is intended to remove the stigma of any associated convictions.

13. If a person considers their circumstances meet the pardon criteria set out in the Bill or where a person is considered to meet such criteria posthumously then the pardon should be considered to apply automatically.

14. There are various sources of information which could indicate the number of convictions related to the strike. The report<sup>4</sup> of the IRG made reference to an estimated 1,350 arrests in Scotland linked to the strike, and around 470 court cases as at June 1985, with around 85% of these leading to a conviction. A breakdown of the number of prosecutions and convictions in Scotland provided by the Solicitor General for Scotland on 7 February 1986 in response to a parliamentary question on the strike is published in Hansard<sup>5</sup>. There is however no robust information to confirm the exact number of persons who may consider themselves eligible for the pardon. An estimate based on the information outlined in the IRG report could suggest between 200-400 former miners could be eligible but this number could be less or greater.

15. For this reason and given the symbolic effect and collective and automatic nature of the pardon as well as there being no administrative mechanisms proposed by the Bill, the Scottish Government does not consider that a formal awareness raising campaign is required to promote the pardon should it become law. The Scottish Government considers that a more informal approach with assistance from stakeholders such as the NUM, the National Mining Museum Scotland Trust, Community Councils as well as political, legal and academic interests will be more effective with a view to promoting and maximising awareness of the pardon amongst the NUM membership and in former mining communities.

16. The Bill will also contribute to the following National Outcome<sup>6</sup> :

- We live in communities that are inclusive, empowered, resilient and safe.

## **KEY PROVISIONS OF THE BILL**

17. The Bill provides for an automatic pardon for miners convicted of the offences listed in section 2 of the Bill subject to certain conditions listed under section 1 of the Bill being met.

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<sup>4</sup> [Policing of the miners' strike 1984-1985 - impact on communities: independent review – Appendix A](#)

<sup>5</sup> [Miners Dispute \(Hansard – 7 February 1986\)](#)

<sup>6</sup> [National Outcomes](#)

18. Firstly, the conduct which gave rise to such a conviction must have occurred between 12 March 1984 and 3 March 1985 inclusive. These dates are intended to reflect the period of the national strike as it took place in Scotland<sup>7</sup>.

19. Secondly, the conduct must have occurred during and in the course of a miner's participation at a picket line, demonstration; or other similar gathering in supporting the strike. Alternatively the offence must have resulted from conduct which occurred while a miner was travelling for the purposes of participating, or after having participated, in a picket, demonstration or other similar gathering supporting the miners' strike, and was directly related to the miner's intended or actual participation in the picket, demonstration or other similar gathering.

20. The policy intention is therefore not to pardon convictions which relate to conduct which occurred at other locations in the wider community, whether or not the subject-matter of the dispute was strike-related, for example a personal dispute or altercation between a striking and non-striking miner outside the non-striking miner's home which could have attracted a conviction of breach of the peace. Where the offence of breach of bail is concerned, even if the original prosecution in respect of which the bail condition was imposed was strike-related, the policy intention is to pardon convictions only where the conduct which gave rise to breach of the bail conditions was directly linked to a person's participation at a picket line, demonstration or similar gathering. Therefore, an activity such as disobeying a prohibition on contacting or approaching a witness for example would not be covered. The Scottish Government considers that to include convictions that arose from such conduct would go beyond what is considered as the policy intention of the pardon which is to recognise the disproportionate consequences suffered by many miners for taking part in the strike and to remove the stigma of any associated convictions. To extend the pardon to include such convictions would also set a precedent for similar offences were they to be committed in current times.

21. The offences listed at section 2 of the Bill are considered to be the most common offences committed during strike-related activity. This comprises of the common law offence of breach of the peace; the offence of breach of bail under section 3 of the Bail etc. (Scotland) Act 1980<sup>8</sup>; and the offence under section 41(1)(a) of the Police (Scotland) Act 1967<sup>9</sup> (commonly known as obstruction). The inclusion of breach of the peace and breach of bail is consistent with the recommendation of the IRG and is also supported by the consultative response where a large majority of respondents report agreed that such offences should be relevant to the pardon. The offence under the 1967 Act was not specifically recommended by the IRG for a pardon but was prominently suggested amongst respondents to the consultation.

22. The clearest example of the type of conduct that is intended to be included would be a conviction for a breach of the peace or section 41(1)(a) of the 1967 Act in respect of an interaction with the police which took place on a picket line, at a demonstration or other similar gathering .

23. At the time of the strike, it is recognised that the offence under section 41(1)(a) of the 1967 Act criminalised assaulting, resisting, molesting, obstructing or hindering a constable in the

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<sup>7</sup> [Policing of the miners' strike 1984-1985 - impact on communities: independent review - Timeline of the 1984-85 miners' strike](#)

<sup>8</sup> [Bail Etc. \(Scotland\) Act 1980\(Repealed 1.4.1996\) – Section 3](#)

<sup>9</sup> [Police \(Scotland\) Act 1967 \(repealed\) – Section 41\(1\)\(a\)](#)

execution of their duty. The inclusion of such an offence is not intended to endorse similar conduct if it were to happen today but to reflect the circumstances of the strike which led to such conduct taking place. A clear example of such conduct could be pushing and shoving and other manhandling between miners and the police in a picket line scenario.

24. It is recognised that such conduct could constitute assault but could also have been considered to be resisting or obstructing. There are practical difficulties given the lack of records to establish the exact circumstances which led to such conduct being prosecuted and it would be hard for a person to make a judgement about whether their past behaviour amounted to “assaulting”, “resisting” or “obstructing” when self-assessing their eligibility for the pardon, given that these concepts are not necessarily mutually exclusive. It is also recognised that such an offence could have been charged alongside breach of the peace and sometimes the two offences were charged in respect of the same behaviour which would make it difficult for example to pardon the offence of breach of the peace and not the offence under section 41(1)(a) of the 1967 Act should the conditions of the pardon be otherwise met.

25. The large majority of convictions for section 41(1)(a) offences related to the strike were disposed of by means of a fine so it is considered that any element of assault on police officers as part of such an offence would have been considered relatively minor by the courts. It is envisaged that more serious assaults on police officers would have more likely been prosecuted as common law assault which, if convicted, attracted no maximum limits on sentence. The Bill therefore does not include the potentially more serious offence of common law assault as a qualifying offence.

26. Where a conviction under breach of bail is concerned, the pardon is intended to only apply where the conduct which breached the bail condition was itself directly related to participation in strike-related activity. The inclusion of such an offence is not intended to endorse similar conduct if it were to happen today, but to reflect the circumstances of the strike which led to a miner continuing to participate in such activity - for example, in returning to the picket line in defiance of a bail condition which prohibited this.

27. The Bill does not cast any doubt on decisions made by the judiciary at the time of the strike. Section 3 of the Bill makes it clear that the application of a pardon is not intended to quash any convictions, nor create any new rights, liabilities or entitlements. The Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018<sup>10</sup> (“the 2018 Act”) and the Armed Forces Act 2006<sup>11</sup> (“the 2006 Act”) contain some useful parallels which have been drawn upon in terms of developing this provision in the Bill. In the case of the miners, the pardon is however intended to provide some recognition of the disproportionately adverse effects on the miners of participation in the strike, and encourage reconciliation, but without suggesting that the law itself was at fault, or was applied in a systemically discriminatory manner.

28. Section 4 of the Bill provides the meanings of key terms used in the Bill. The Scottish Government considers that the persons most adversely affected by the strike and the consequences of strike-related convictions were the miners themselves. “Miner” is however defined to include surface occupations where the individual was employed by the National Coal Board (NCB) or the

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<sup>10</sup> [Historical Sexual Offences \(Pardons and Disregards\) \(Scotland\) Act 2018 - Part 2](#)

<sup>11</sup> [Armed Forces Act 2006 – Part 17 – Miscellaneous - Pardons for servicemen executed for disciplinary offences: recognition as victims of First World War](#)

licensee of a private mine. This recognises that some surface employees also experienced their livelihoods being directly threatened by mine closures, and may have participated in, or taken action in support of, the strike.

29. The Scottish Government recognises that a number of former miners will have unfortunately died in the intervening years since the strike, and therefore the definition of miner will apply both to living persons and posthumously where the person meets the qualifying criteria for the pardon. This approach, in particular where a pardon could apply posthumously, will allow for example a third party such as a family member or friend to know that their relative or friend has been pardoned.

30. The Bill therefore defines a 'miner' as persons, including deceased persons, who were employed by the NCB established under section 1 of the Coal Industry Nationalisation Act 1946<sup>12</sup> (the 1946 Act) or by a person holding a licence granted under section 36(2)(a)<sup>13</sup> of the 1946 Act to work in any part of Great Britain at any point during the period 12 March 1984 to 3 March 1985 (the period of the national strike). The policy intention is to ensure that persons who worked underground in a coal mine, at the surface of the coal mine and at the larger workshops located outwith coal mines which were used to maintain and repair mining equipment and machinery, are covered under the definition. The definition has however been drafted widely to recognise that there may be other persons (employed by the NCB or a licensed person under the 1946 Act) that may meet the pardon criteria.

31. The policy intention is that a miner must have been employed in any part of Great Britain so there is no requirement for the miners to have been employed in Scotland only. As long as the conviction (as defined in section 4 of the Bill) was from a Scottish criminal court, it does not matter that a miner did not live in Scotland and had travelled from outside Scotland to participate in strike activity.

32. The policy intention is that a miner must have been employed (by the NCB or a licensed person under the 1946 Act) at any time during the strike period of 12 March 1984 to 3 March 1985. This policy approach is consistent with the findings of the consultative response that indicated that being dismissed due to a conviction for a strike related offence should not be a relevant consideration. This however means that the definition of "miner" includes miners who retired or were dismissed during the strike period, who were not employed (by the NCB or a licensed person under the 1946 Act) or on strike at the time that the offence was committed. In such circumstances, the Scottish Government considers that such persons would likely still have had a personal stake in the strike and the coal industry in general. It is also considered that introducing additional conditions linking a miner's employment status to the time of the offence could risk making the pardon criteria divisive. Excluding miners who were dismissed during the strike for strike-related reasons would not be consistent with the policy aims, while seeking to differentiate between dismissal for "strike-related" and "non-strike-related" reasons would introduce a degree of complexity which the Scottish Government considers undesirable particularly given the policy intention for a person to self-assess whether they meet the conditions of the pardon.

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<sup>12</sup> [Coal Industry Nationalisation Act 1946 – Section 1](#)

<sup>13</sup> [Coal Industry Nationalisation Act 1946 – Section 36\(2\)\(a\)](#)

33. The Bill provides a definition of what is meant by the strike. This means the national concerted stoppage of work by miners led by the NUM. This policy approach aligns with the events of the strike where the NUM united various localised disputes into nationwide industrial action across the UK on 12 March 1984.

34. Section 5 of the Bill proposes that it should come into force the day after Royal Assent. The Scottish Government considers that many of those who could be potentially eligible for the pardon are likely to be elderly given the passage of time since the strike. This would therefore enable pardons to take effect as soon as possible for persons who consider that they meet the conditions of the pardon. This would also bring a sense of comfort to family members or friends of persons who have unfortunately died in the intervening years since the strike and who are considered to meet the qualifying criteria posthumously. As the Bill does not establish an application process or disregards scheme, there are no administrative mechanisms which would need to be put in place prior to commencement.

## **ALTERNATIVE APPROACHES**

### ***Introduce an application scheme to enable a determination to be made as whether a person meets the conditions of the pardon***

35. There is no requirement in the Bill for a person to apply for a pardon. The pardon is intended to be automatic where a person meets the qualifying criteria. This policy approach is consistent with the approaches taken within Part 2 of the 2018 Act which represented the last occasion when the Scottish Parliament legislated for a pardon, as well as Part 17 of the Armed Forces Act 2006 (the "2006 Act") which was UK legislation which provided for the mass pardon for British Empire soldiers executed for certain offences - including desertion and cowardice - during World War 1.

36. Another reason for this approach is the fact that the strike took place over 35 years ago and therefore, from a practical perspective, there would be a lack of available records and evidence to support a formal decision making process (by the Scottish Government or another delegated body) on whether a person should be eligible for the pardon. The retention period for records being held on Police Scotland's Criminal History System (CHS) depends on the severity of the crime. The evidence suggests that cases related to the strike in Scotland were prosecuted under summary procedure. Those convicted received a non-custodial disposal, commonly a fine and in a few cases a form of community sentence. For records pertaining to non-custodial sentences, the 40/20 rule would apply under CHS. This means that once the convicted person reaches 40 years of age and the information has been held on record for at least 20 years, then the record will be removed from the CHS.

37. Therefore as of this present year, a person would have to have been born in 1981 for a criminal record to still be available under the 40 year rule or the case would have to be generated from 2001 to be held under the 20 year rule. As the CHS applies whichever of these criteria would hold the case for longer, it is not considered that there would be any records held which would be applicable to the miner's strike of 1984/1985 under that retention policy.

38. For records pertaining to anyone who received a custodial sentence under summary procedure or custodial sentence or a non-custodial sentence which followed a conviction on

indictment, the 70/30 rule would apply under CHS. This means that once the convicted person reaches 70 years of age and the information has been held on record for at least 30 years, then the record would be removed from the CHS. It is possible that anyone born from 1951 to 1967 (if it is assumed that anyone convicted in relation to the strike was at least 18 years of age) may still have a record on the CHS which would be expected to be removed between this present time and 2037. There is however no robust evidence to suggest that anyone received a custodial sentence under summary procedure or a custodial or a non-custodial sentence related to the strike which followed a conviction on indictment.

39. It is also considered that, at the time of the strike, records would not have been stored electronically by the Scottish Courts and Tribunals Service (SCTS). It is also considered that summary complaints will have been destroyed under the terms of the SCTS statutory destruction policy authorised by the Keeper of the Records in terms of the Disposal of Court Records (Scotland) Regulations 1990<sup>14</sup>. Whilst there is a requirement set out in policy that criminal indexes and roll books are to be transferred to the National Records of Scotland (NRS) for permanent preservation, it is considered that summary conviction records would simply confirm the general nature of the charge labelled e.g. a breach of the peace or a section 41(1)(a) offence but the exact conduct and circumstances which gave rise to such an offence would not be recorded. It is considered that even where SCTS could confirm a record of a conviction under summary procedure was held, this record would not however be able to confirm whether such a conviction was connected to the strike.

40. Indictments are transferred to NRS for permanent retention after a period of 25 years as set out in the policy above. Such information is kept separately from registers and would provide some details on the individual case such as the charge and the outcome. Again, there is no robust evidence to suggest that anyone received a custodial or a non-custodial sentence related to the strike which followed a conviction on indictment. For all these reasons, the Scottish Government considers that a scheme requiring or enabling individual applications for a pardon (or for a disregard, as in Part 3 of the 2018 Act) would not make sense to pursue.

***Renew calls for the UK Government to undertake a full public inquiry in to the events of the strike***

41. An uncovering of the truth of what happened during the strike is important to people affected by the strike and the Scottish Government continues to consider that a full UK public inquiry is key to that. In 2016, the UK Government considered the case for establishing an inquiry or independent review into the events that occurred in June 1984 at one of the strike's main flashpoints, Orgreave Coking Plant in South Yorkshire. In October 2016, however the UK Government announced<sup>15</sup> that there was not sufficient basis to instigate either a statutory inquiry or an independent review.

42. The Scottish Ministers cannot establish a public inquiry that would consider elements of policy reserved to the UK Government. For example, the subject matter of Trade Union Relations is not devolved to Scottish Ministers and only the UK Government can address those issues, or any allegations of political interference by a previous UK Government. In November 2016, the

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<sup>14</sup> [The Disposal of Court Records \(Scotland\) Regulations 1990](#)

<sup>15</sup> [UK Government Statement – 31 October 2016](#)



then Cabinet Secretary for Justice, Michael Matheson MSP, wrote to the then Home Secretary stating that the UK Government should commission and appoint an independent UK-wide investigation into any political interference during the dispute<sup>16</sup>. The UK Government refused to do so.

43. In March 2021, to coincide with the publication of a consultation on the qualifying criteria for the pardon, the then Cabinet Secretary for Justice, Humza Yousaf MSP wrote to the current Home Secretary urging the UK Government to undertake a full UK public inquiry<sup>17</sup>. The Scottish Government however considers that should the Scottish Parliament support the Bill, any subsequent pardons would not prevent campaigners and policy makers from continuing to call for a full UK public inquiry - and the introduction of this Bill may encourage such calls to continue to be made.

### ***Make an apology***

44. An option considered which would fall short of a pardon was for the Scottish Government to offer an apology to former miners who participated in the strike in Scotland for the perceived manner in which they had been treated by the State and in recognition of their suffering as a result of the NCB's dismissal policy in Scotland. The Scottish Government remains sympathetic and recognises the profound effect which the strike had on individuals and communities. It is however considered that the offer of such an apology could be viewed as a response to the perceived actions of the then UK Government, given that the Scottish Government was not in existence at the time of the strike and that employment (including dismissal of employees) is a reserved matter. It is considered that there would be other challenges in the Scottish Government offering such an apology, as the 'State' in the form it was during the period of the strike, no longer exists today e.g. the operation of the NCB and the eight separate police forces across Scotland.

### ***Provide some form of monetary redress to mining communities and former miners***

45. An option considered which would fall short of a pardon and an apology was to consider whether additional funding resource could be given to the Coalfields Regeneration Trust and the National Mining Museum of Scotland to reflect that former mining communities continue to be affected by the strike. Representations to the Scottish Government from stakeholders indicated however that a non-monetary redress would be more meaningful than a monetary redress. An assessment of value for money and affordability for any monetary redress would also be required.

46. The provision of financial compensation for miners was outwith the remit for the independent review commissioned by the Scottish Government and was not one of the review's recommendations. The report did however acknowledge that matters relating to compensation would have required a wider inquiry. Legislative precedent around pardons was also considered in terms of fairness and consistency in providing compensation or monetary redress to former miners. It was noted that the 2018 Act does not contain provision around compensation. Finally, in practical terms, compensation would need to be assessed for each individual which would require background checks that the individual met the qualifying criteria for the pardon which is

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<sup>16</sup> [Independent Review Group - Scottish Government Website](#)

<sup>17</sup> [Consultation on miners' strike pardon – Scottish Government News Release – 12 March 2021](#)

not consistent with the policy of a symbolic, collective and automatic pardon that is being proposed in the Bill.

47. The subject matter of employment and industrial relations is also reserved to Westminster. The Scottish Government therefore considers that it would be for the UK Government to consider financial compensation or monetary redress for former miners resulting from their dismissal by the NCB. The Scottish Government considers that this Bill and any subsequent pardons arising from this Bill, would not prevent campaigners and policy makers calling on the UK Government to undertake a full UK public inquiry, including whether compensation should be awarded to those who continue to be affected by the strike. The introduction of this Bill may therefore encourage such calls to continue to be made.

## **CONSULTATION**

48. In 2018, the IRG commissioned by the Scottish Government published its call for evidence<sup>18</sup> to inform the findings of its report. That call for evidence took place between 3 September and 12 December 2018 and received 108 responses which were published<sup>19</sup> where permission was given to do so. Consultation events were also undertaken in mining communities including Alloa, Auchengeich, Cumnock, Fallin, Fauldhouse, Lochgelly, Newtongrange and Oakley. Meetings were also held with individual miners, police officers, politicians and others with relevant experience and knowledge of the strike. The analysis of the responses<sup>20</sup> to the call for evidence was also published.

49. In order to collect views on what the qualifying criteria for the pardon should be, the Scottish Government prepared and published a consultation paper<sup>21</sup> on 12 March 2021 which set out some qualifying criteria for consideration - some of which were previously suggested by the independent review and others which were offered by the Scottish Government, though not necessarily endorsed by the Scottish Government. The consultation also asked whether any other criteria should be considered.

50. The Scottish Government also indicated in the consultation paper that it may choose to implement some or all of the criteria proposed in the report of the IRG or may add more criteria. The purpose of the consultation was therefore to attract a wide range of views to help inform what the criteria should be. The previous review had highlighted the value of the contribution made by those affected by the strike in shaping understanding of the strike and the experience of those affected.

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<sup>18</sup> [Policing during miners' strike: independent review](#)

<sup>19</sup> [Policing during the Miners' Strike: Independent Review – Published Responses](#)

<sup>20</sup> [Call for evidence on the impact of policing on affected communities in Scotland during the period of the miners' strike from march 1984 to march 1985: analysis of responses](#)

<sup>21</sup> [Miners' strike 1984 to 1985 pardon: consultation paper](#)

51. The consultation which ran until 4 June 2021 received 377 responses which were published<sup>22</sup> where permission was given to do so. The analysis of these responses<sup>23</sup> was published on 17 August 2021.

52. Overall, the analysis of the responses revealed that a large majority of respondents were in favour of the proposals to pardon miners, and wanted the qualifying criteria to be as inclusive as possible. Respondents generally supported a pardon for breach of the peace (=87%) and breach of bail convictions (=86%), and for additional offences (=44%) (though there was less consensus on what those offences should be). The majority of respondents also thought that miners convicted of multiple offences (=78%) (as well as a single offence (=87%)) should equally be pardoned. Furthermore, the majority of respondents believed that the means of disposing of the case (custodial (=78%) or non-custodial sentence (=88%)) was not relevant to a miner's eligibility for a pardon – nor was the issue of a history of pre-strike (=69%) or post-strike convictions (=64%). Another factor deemed irrelevant by the majority of respondents (=84%) was whether or not the conviction(s) had resulted in dismissal by the NCB. A relatively small proportion of respondents were opposed to the idea of a pardon in principle or favoured more restrictive criteria for the pardon, believing that pardoning criminal offences undermined the rule of law. Therefore, the consultative response overall indicated that the only relevant qualifying criteria for the pardon should be the range of offences. The responses to the consultation have therefore shaped the proposed legislation introduced to Parliament to give effect to the pardon.

53. The Scottish Government also met online with representatives from the NUM and the Retired Police Officers Association Scotland (RPOAS) during the public consultation period to discuss the consultation paper. Subsequent online meetings were held with the NUM, the RPOAS, Police Scotland and members of the IRG to discuss the findings of the consultation and to gather further views to inform the drafting of the Bill. RPOAS, the NUM and the IRG were supportive of the proposed conditions and range of qualifying offences to be included in the Bill. Police Scotland declined to offer a view.

54. The Scottish Government response to the consultation was published on 13 September 2021<sup>24</sup>.

55. The Scottish Government is committed to fully considering further views on these proposals during the passage of the Bill.

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<sup>22</sup> [Miners' strike 1984 to 1985 pardon: consultation – Published Responses](#)

<sup>23</sup> [Miners' strike 1984/85 pardon consultation: analysis of responses](#)

<sup>24</sup> [Miners' Strike 1984/85 Pardon: Consultation – We asked, You said, We did](#)

## **EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.**

### **Equal opportunities**

56. An Equality Impact Assessment has been prepared<sup>25</sup> in respect of the provisions contained in the Bill. It found that the proposals in the Bill do not discriminate on the basis of age, gender, race, sex, religion, disability or sexual orientation.

57. In terms of the protected characteristic groups identified in the Equality Act 2010, the Bill is expected to have a positive impact on people with the protected characteristics of Age on the basis that the pardon is also expected to promote good relations and a greater understanding of experiences of the strike among different age groups, as well as bringing comfort to the families and friends of former Miners and their communities at a multi-generational level.

58. Specifically on the grounds of sex, the Scottish Government recognises that the IRG had recommended that the pardon should apply to men convicted for matters related to the strike. It is acknowledged that only males were allowed to work underground in the UK coal mining industry in 1984/85, and so inevitably the focus of the numbers of those arrested and convicted was on male miners. However, the definition of “miner” contained in the Bill includes surface occupations from which women were not formally excluded.

59. A small number of respondents to the Scottish Government consultation on the pardon qualifying criteria had suggested that the pardon should be extended to various categories of people who were not miners but who may also have been convicted of strike-related offences due to the impact the strike had on others. This included the wives or other family members of miners, non-male members of the NUM, other trade unionists who were not/no longer employed as miners and other members of the public who had participated in support of the miners. However, the lack of surviving records, given the passage of time since the strike, makes it difficult to determine how many persons convicted during the period of the strike were non-miners and therefore to provide robust evidence which would support extending the scope of the Bill.

60. Taking everything into consideration, the Scottish Government considers that the persons most adversely affected by the miners' strike and the consequences of strike-related convictions were the miners themselves. The definition of ‘miner’ in the Bill has however been drafted widely to include persons who were employed by the NCB or by a person licensed by the NCB. Therefore this definition also covers persons who were female and worked at the surface of a mine or in other premises related to the operation of a mine.

### **Human rights**

61. It is considered that the Bill is fully compatible with the European Convention on Human Rights (ECHR). It is recognised that Article 14 of ECHR (prohibition of discrimination) requires that the dividing line between those meeting the criteria for the pardon and those who do not, does not give rise to unjustifiable differences in treatment, assuming that the scheme is within the ambit

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<sup>25</sup> [Equalities Impact Assessment](#)

of another ECHR right. Article 14 does not apply otherwise, but careful consideration has been given to this aspect in developing the provisions of the Bill.

### **Island communities**

62. The Bill has no differential impact on island or rural communities. It is recognised that former mining communities both in urban and rural areas were located within mainland Scotland predominantly across the central belt, Ayrshire, Fife and southern Scotland. The provisions of the Bill will however apply equally to all parts of Scotland.

### **Local government**

63. The Scottish Government is satisfied that the Bill has no detrimental effect on local authorities. A Business and Regulatory Impact Assessment has been prepared<sup>26</sup> in respect of the provisions contained in the Bill. There are no specific implications arising from the Bill that affects local authorities.

### **Sustainable development**

64. The potential environmental impact of the Bill has been considered. A pre-screening report confirmed that the Bill has minimal or no impact on the environment and consequently that a full Strategic Environmental Assessment does not need to be undertaken. It is therefore exempt for the purposes of section 7 of the Environmental Assessment (Scotland) Act 2005.

65. The Bill supports the United Nations Sustainable Development Goal 16: to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

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<sup>26</sup> [Business and Regulatory Impact Assessment](#)

*This document relates to the Miners' Pardons (Scotland) Bill (SP Bill 5) as introduced in the Scottish Parliament on 27 October 2021*

# **MINERS' STRIKE (PARDONS) (SCOTLAND) BILL**

## **POLICY MEMORANDUM**

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