

Miners' Strike (Pardons) (Scotland) Act 2022

Pardon Eligibility Self-Assessment Guide

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Introduction

1. The Miners' Strike (Pardons) (Scotland) Act 2022 came into effect on 27 July 2022. A copy of the Act and explanatory notes are available separately at www.legislation.gov.uk/asp/2022/6/contents/enacted.

2. The Act provides a pardon to certain people who were convicted of certain offences which were committed in Scotland between 12 March 1984 and 3 March 1985 and which were related to the Miners' Strike. The pardon is automatic, which means that there is no application scheme to obtain a pardon. This is because it is recognised that it will be very difficult now for people to provide documentary evidence of any criminal conviction linked to the strike, given the passage of time.

Purpose of this Guide

3. For the pardon to be as inclusive as possible, the Scottish Parliament agreed that self-assessment was the best way to assess eligibility. It is for you to decide whether or not you qualify for the pardon, based on the qualifying criteria set out below. If you meet the qualifying criteria for the pardon, then you are pardoned. This guide has been prepared by the Scottish Government to help you assess whether you qualify for the pardon.

4. The pardon also applies posthumously. The guide can also be used so that an assessment of eligibility for the pardon can be undertaken on behalf of a deceased person - for example by a family member or friend.

5. All examples given within this guide and annexes are entirely for illustrative purposes.

6. If you have any questions about the qualifying criteria, then please direct your enquiry by email to minersstrikepardon@gov.scot or in writing to:

Miners' Strike Pardon
Scottish Government
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

Qualifying Criteria

7. To qualify for a pardon, you must be a qualifying individual **and** have committed a qualifying offence. These terms are explained below.
8. A **qualifying individual** is:
 - A miner (this means an individual employed at any time during the period of 12 March 1984 to 3 March 1985 by the National Coal Board or a small mine licensee (regardless of the type of work they did)); or
 - A person who, at the time of committing a qualifying offence, lived in the same household as a miner (as defined above); or was a parent, sibling or child of a miner.
9. A **qualifying offence** is defined as:
 - Breach of the peace;
 - Breach of bail, which at the time of the strike was covered by section 3 of the Bail etc. (Scotland) Act 1980;
 - Obstructing the police, which at the time of the strike was covered by section 41(1)(a) of the Police (Scotland) Act 1967; and
 - Theft.
10. The qualifying offence must have led to a conviction in a Scottish court. Convictions from courts elsewhere (such as in England or Wales) are not pardoned under the Act.
11. For all of the above qualifying offences (with the exception of theft), the offence must have occurred while a qualifying individual was
 - Taking part in an activity supporting or opposing the miners' strike; or
 - Assembling before or after, or travelling to or from, an activity supporting or opposing the miners' strike (this is sometimes called ancillary activity); or
 - Reacting to behaviour which falls within either of the two descriptions above.
12. In the case of theft, this must have been committed to relieve economic hardship arising from taking part in the miners' strike – where either the qualifying individual was a participant in the strike, or the hardship arose from someone else participating in the strike.
13. Offences relating to matters which were not connected to the Miners' strike are excluded from the pardon qualifying criteria - for example, a qualifying person who was convicted for a breach of the peace which related to a personal dispute with another person would not be pardoned for that offence.

Further Information

14. A step-by-step guide to the pardon qualifying criteria is provided at Annex A.
15. Some illustrative examples of the pardon qualifying criteria are provided at Annex B.
16. A glossary of key terms used in this guide is provided at Annex C.

Annex A – Pardon Qualifying Criteria – Step by Step Guide

Please follow the self-assessment guide below. Please note that the pardon also applies posthumously so the self-assessment can also be undertaken on the basis of assessing another person's eligibility for the pardon.



Step 1

- Were you a 'miner' - this means an individual employed at any point during the period 12 March 1984 to 3 March 1985 by the National Coal Board or a small mine licensee?
- Did you live in the same household as a miner during the period 12 March 1984 to 3 March 1985?
- Were you a parent, child, brother, half brother, sister or half sister of someone who was a miner during the period 12 March 1984 to 3 March 1985?
- If you answered yes to any of the above questions, then please move on to step 2.



Step 2

- Were you convicted in Scotland of a qualifying offence - meaning a breach of the peace or breach of bail conditions or obstructing police etc. or theft - as a result of behaviour which happened during the period 12 March 1984 to 3 March 1985? (If you were a member of the same household as a miner, you must have been living in the same household with that miner at the time of the offence) and
- Did such a qualifying offence occur due to a matter which related to the miners' strike? (see paragraph 13 of the guide for further information)
- If you answered **yes to both of the above questions**, then please move on to step 3.



Step 3

- Did the qualifying offence of a breach of the peace or breach of bail conditions or obstructing police etc. occur while you were taking part in activity supporting or opposing the miners' strike; or while you were assembling before or after such activity; or while you were travelling to or from such activity; or when you were reacting to the behaviour of anyone else while they were doing any of these things? or
- Did the qualifying offence of theft occur to relieve economic hardship arising from your own participation in the miners' strike, or another individual's participation in the miners' strike?
- If you answered yes to either of the above questions then you meet the pardon qualifying criteria. Please see step 4 for further information on what happens now.

What happens now?



- **You do not need to apply for a pardon. The pardon is automatic.**
- **You should consider yourself to be pardoned if you meet the pardon qualifying criteria.**
- Given the passage of time since the strike took place, it is unlikely that any record of your conviction remains on police systems in Scotland. There is therefore no legal requirement for any records to be marked to reflect that you consider that your conviction should be pardoned.
- The pardon is intended to be symbolic and to promote reconciliation - restoring dignity to those who consider they meet the qualifying criteria, removing the stigma of such a conviction, healing wounds, and providing comfort and some closure to mining communities who still remain affected by the legacy of the strike to this day.
- The pardon does not affect any conviction or sentence or give rise to any right, entitlement or liability. For example, the pardon does not reverse any decision made by the judiciary at the time of your conviction. If you believe your conviction was a Miscarriage of Justice, then you may wish to visit the Scottish Criminal Cases Review Commission Website at www.sccrc.co.uk for further information.
- Further information about the pardon is available on the Scottish Government website at **<https://www.gov.scot/publications/miners-strike-pardon/>**
- Enquiries about the pardon can be e-mailed to **minersstrikepardon@gov.scot** Please note that the Scottish Government is unable to provide a certificate of pardon to you, as the pardon is on the basis of self-assessment rather than by official adjudication.

Annex B - Pardon Qualifying Criteria – Illustrative Examples

1. James had been employed as a miner in Scotland by the National Coal Board since 1972. In October 1984, James was travelling for the purposes of supporting a picket line when he had an altercation with the family of a working miner about the strike. James was arrested and later convicted at a Scottish court of an offence of breach of the peace. **James meets the criteria.**
2. Bill had been employed as a miner in England by the National Coal Board since 1978. Bill had travelled to support a picket line in Scotland in August 1984 where he refused to follow an instruction issued by police officers while on that picket line. Bill was arrested and, following trial at a Scottish court, was found to have committed an offence of police obstruction. **Bill meets the criteria.**
3. Mary was married to Robert who had been employed as a miner by the National Coal Board since 1968. Whilst Mary was participating in a demonstration taking place in her village in support of the strike, she was arrested following an argument with a working miner regarding the strike. Mary was subsequently convicted by a Scottish Court for committing a breach of the peace. **Mary meets the criteria.**
4. Steven had been employed as a miner in Scotland by the National Coal Board since 1980. Steven had been bailed in June 1984 while awaiting trial for an alleged offence of a breach of the peace as a result of an altercation with police officers on a picket line in May 1984. Steven was then arrested in August 1984 for breaching a bail condition by returning to the picket line. Steven was subsequently convicted of the offence of breach of the peace and the subsequent offence of breach of bail by a Scottish Court. **Steven meets the criteria for both convictions.**
5. Harry had been employed as a miner in Scotland by the National Coal Board since 1975. Harry was arrested in November 1984 as a result of shouting at working miners who were being transported by bus from a nearby coal mine. At the time of the altercation, Harry was waiting to be collected to travel to a strike related demonstration taking place in another town. Harry was subsequently convicted by a Scottish Court for committing a breach of the peace. **Harry meets the criteria.**
6. Alan had been employed as a miner in Scotland by the National Coal Board since 1977. Alan had returned to work in October 1984 but was subsequently arrested for a dispute outside his home with his neighbour William who supported the strike. The row related to their contesting views on the strike itself. William had been employed by the National Coal Board until the Summer of 1984 when he was dismissed as a result of being arrested for police obstruction. Both Alan and William were subsequently convicted by a Scottish Court for committing a breach of the peace as result of their altercation. **Both Alan and William meet the criteria.**

7. Susan was employed as a teacher and participated in a demonstration in support of the strike in January 1985. The demonstration was held in a town in which Susan's brother John lived. John had been employed as a Miner by the National Coal Board until September 1984 when this employment was terminated following John's conviction for assault. Whilst taking part in the demonstration, Susan alongside John were arrested for being involved in a dispute with police officers which led to both being charged with a breach of the peace. John pled guilty and was convicted but Susan was found not guilty following trial. **John meets the criteria but only for the conviction of an offence of breach of the peace (assault is not a qualifying offence under the Act). Susan does not meet the criteria as she was not convicted of any offence.**

Annex C - Glossary of Key Terms used in this Guide

Activity

This means conduct that occurred while a qualifying individual was engaged or participating in activity supporting or opposing the miners' strike.

This would include conduct that occurred in the course of an organised picket or demonstration. It would also include informal strike activity, such as an altercation or a disturbance in the community or a spontaneous demonstration.

Ancillary Activity

This means conduct that occurred while a qualifying individual was engaged or participating in activity such as assembling before or after or travelling to or from activity supporting or opposing the miners' strike.

For example, conduct that occurred between qualifying individuals attempting to reach a picket line and police seeking to block them. Another example would be an altercation between qualifying individuals and police as people were dispersing following activity in the community.

Breach of Bail

The conduct which breached the bail condition must itself meet the pardon criteria.

An example of such conduct is a qualifying individual returning to the picket line in defiance of a bail condition prohibiting the qualifying individual from doing so, because the individual broke the bail condition in the course of taking part in activity supporting the strike.

However, if a qualifying individual who had been charged with a strike-related offence breached a bail condition by threatening an eye-witness, then a conviction for that breach of bail would not qualify for the pardon, because threatening a witness would not be activity supporting or opposing the strike or ancillary activity.

Conviction

This means any finding in criminal proceedings that a person has committed an offence or done the act or made the omission that they have been charged with.

The meaning also includes the scenario in which a person was unfit for trial and there was instead an examination of the facts, at which a court examined the available evidence and made a finding as to whether the person did the act or made the omission constituting the offence (but there is no conviction). It also includes an absolute discharge, which is deemed not to be a conviction (other than for limited purposes).

Excluded

This means conduct that occurred for a reason unrelated to the miners' strike.

Conduct which just happened to take place at, or on the way to or from, strike activity (but could equally have taken place in another context) would not be covered by the pardon. For example, a conviction of breach of the peace following a dispute about a personal matter would not be pardoned.

Household

For an individual to be classed as being in the same household as a miner for the purposes of the pardon, the individual must have lived with the miner as a family or other unit.

It does not matter whether the individual and the miner were related so, for example, a group of friends who rented a flat together would constitute a household. A lodger could also count as a member of a household if the lodger was living as "one of the family".

The individual and the miner must have been living in a private dwelling that was their only or main residence and they must have had shared cooking facilities and shared a living room or sitting room or dining area.

Miner

An individual who was employed by the National Coal Board, or a small mine licensee. It does not matter what role the miner had. The definition of 'miner' under the Act includes, for example, all underground workers, all surface workers and those employed in workshops that were situated away from the coal mines.

There is no need for a miner to have been employed in Scotland. A miner could have been employed in any part of Great Britain. As long as the conviction was from a Scottish court, it does not matter that an individual did not live in Scotland and had travelled from outside Scotland to participate in strike activity.

Miners' Strike

This means the national concerted stoppage of work by miners led by the National Union of Mineworkers which took place from 12 March 1984 to 3 March 1985 (inclusive).

Pardon

The effect of the pardon is that certain individuals who were convicted in Scotland of certain offences committed during the 1984-85 national miners' strike are pardoned automatically for those offences if the qualifying criteria of the pardon are met.

The pardon does not affect any conviction or sentence, give rise to any right, entitlement or liability. For example, a pardon does not create any right to financial compensation and it does not reverse any decision made by the judiciary at the time.

The pardon also does not affect the prerogative of mercy – that is, the common law power of the Crown to issue a pardon, commute a sentence or quash a conviction.

Qualifying offence

This means:

- The common law offence of breach of the peace;
- breach of bail, which at the time of the strike was covered by section 3 of the Bail etc. (Scotland) Act 1980;
- obstructing police etc. which at the time of the strike was covered by section 41(1)(a) of the Police (Scotland) Act 1967; and
- the common law offence of theft.

Qualifying individual

This means an individual (including a deceased individual) who was a miner or who was (at the time of committing the offence) a member of the same household as a miner or a parent, child or sibling of a miner.

Responding

This means conduct that occurred in response to activity or ancillary activity (see meaning of 'activity or 'ancillary activity').

For example, where a qualifying individual responded with general threats or insults to strike-related abusive comments made by another individual.

Sibling

This means an individual who (at time of the commission of the offence) had at least one parent in common with a miner - so a half-brother or half-sister of a miner as well as a full brother or sister.

The Act

This means the Miners' Strike (Pardons) (Scotland) Act 2022 which came into effect on 27 July 2022.



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