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Karen Adam
Convener
Equalities, Human Rights & Civil Justice
Committee
Scottish Parliament

19 December 2024

Dear Convener,

The Miners' Strike (Pardons) (Scotland) Act 2022 (Consequential Modifications) Order.

I am writing to inform you that the above Order was laid in the UK Parliament on 9 December following agreement between the Scottish and UK Governments. The Order seeks to add an offence under section 7 of the Conspiracy and Protection of Property Act 1875 ("the 1875 Act") to the list of offences currently specified under section 3 of the Miners' Strike (Pardons) (Scotland) Act 2022 (the 2022 Act").

Subject to parliamentary scrutiny at Westminster, the Order is expected to come into force on 22 January 2025. As you are aware, the 2022 Act provides a collective and automatic pardon to qualifying individuals convicted in Scotland for qualifying offences which related to the strike. I therefore consider that the inclusion of the section 7 offence via this Order will complete the pardon qualifying criteria in Scotland established by the 2022 Act.

The draft Order and its explanatory memorandum can be found at:
<https://www.legislation.gov.uk/ukxi/2024/1304/made>.

Given the passage of time, there is no robust evidence to confirm the type of conduct which led to a conviction under section 7 of the 1875 Act in the context of the miners' strike 1984/85. It is however envisaged that this offence may have been used to prosecute individuals arrested for seeking to prevent others from crossing a picket line or for demonstrating against others who chose to work during the dispute - for example in the context of a gathering outside the home of a working miner. Information published at Westminster had suggested that there were 16 convictions for the section 7 offence related to the strike in Scotland.

During the Scottish Parliament's scrutiny of the Miners' Strike (Pardons) (Scotland) Bill (the Bill"), the Scottish Government had considered calls to include the section 7 offence within the Bill. This offence had however been repealed since the strike took place and replaced with a near-identical offence by the Trade Union and Labour Relations (Consolidation) Act 1992 (the 1992 Act").



The subject-matter of the 1992 Act is expressly listed as forming part of the reservation of employment rights and duties and industrial relations under the Scotland Act 1998 (“the 1998 Act”). For this reason, the Scottish Government took the view that the inclusion of the section 7 offence within the Bill was not possible.

A commitment was however given by the Scottish Government to explore whether the UK Government would be agreeable to bringing forward an Order under section 104 of the 1998 Act. This is used to make consequential amendments which are considered expedient or necessary, in consequence of an Act of the Scottish Parliament. The Scottish Government and the UK Government have worked together to prepare a suitable order and I am pleased that this Order has now been laid. I hope that those affected by convictions for the section 7 offence during the strike will find comfort in its inclusion in the scope of the pardon.

The guidance previously published by the Scottish Government on eligibility for the pardon will be updated at the point at which the Order comes into force. This is important as eligibility for a pardon is based on a person self-assessing whether they meet the qualifying criteria specified under the 2022 Act. Currently, eligibility is for the following persons - a miner; a member of a miner’s household; the child, sibling or parent of a miner - who were convicted of any of the following offences - breach of the peace, breach of bail conditions and an offence under section 41(1)(a) of the Police (Scotland) Act 1967 such as police obstruction.

Such an offence must have related to conduct which took place between 12 March 1984 and 3 March 1985 inclusive and while an individual was:

- engaged or participating in activity supporting or opposing the miners’ strike; or
- assembling before or after such activity; or
- travelling to or from such activity; or
- responding to such activity.

A pardon is also given to the offence of theft where this was committed to relieve economic hardship arising from participation in the miners’ strike – where either the qualifying individual was a participant in the strike, or they committed theft to help someone else who was participating in the strike.

The qualifying individuals and the qualifying conduct to which a qualifying offence must have related to remain unchanged by this Order.

I am copying this letter for information to Richard Leonard MSP and to Nicky Wilson at the National Union of Mineworkers Scotland.

Yours sincerely,

ANGELA CONSTANCE