



Criminal Verdicts (Scotland) Bill

Bill Number:	SP Bill 42
Introduced on:	27 November 2013
Introduced by:	Michael McMahon (Member's Bill)
Fell:	25 February 2016

Passage of the Bill

The [Criminal Verdicts \(Scotland\) Bill](#) was introduced in the Parliament in November 2013.

The Justice Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published in February 2016, with the stage 1 debate taking place later the same month.

Following the stage 1 debate, a majority of MSPs voted against a motion seeking the agreement of the Parliament to the general principles of the Bill.¹ As a result, the Bill fell on that date.

Purpose of the Bill

Under current rules:

- three verdicts are available to a judge or jury in a criminal trial – guilty, not guilty and not proven. In legal terms, the implications of a not proven verdict are the same as a not guilty verdict in that the accused is acquitted
- a jury returns a verdict of guilty where at least eight of its members support that verdict. This level of support is required whether the jury has a full complement of 15 jurors or is reduced in numbers (eg because one or more jurors have been excused). Under these rules, a person can be convicted on the basis of a simple majority (ie eight out of 15 jurors)

¹ The motion was disagreed to by division: For 28, Against 80, Abstentions 0; with mainly Labour members voting for.

The Bill sought to:

- remove the not proven verdict as an option in criminal trials, leaving two possible verdicts of guilty and not guilty
- change the rules relating to the number of jurors who must support a guilty verdict before the jury as a whole returns such a verdict, effectively requiring at least two-thirds in favour of a guilty verdict

The proposals for changing the level of juror support required for a guilty verdict were advanced as a way of ensuring that abolition of the not proven verdict did not heighten the risk of wrongful convictions.²

Parliamentary Consideration

The Committee's stage 1 scrutiny of the Bill was postponed whilst the [Criminal Justice \(Scotland\) Bill](#) (a Scottish Government bill) completed its passage through the Parliament. The decision to delay scrutiny was based on the fact that there was an overlap between the two bills in relation to the reform of jury majorities. The Government bill (as introduced) also included, although for different reasons, provisions seeking to move to a system under which a guilty verdict would require the support of at least two-thirds of jurors. The relevant provisions of the Government bill were removed prior to it being passed in December 2015.

The Government, whilst indicating that it was open to the possibility of the not proven verdict being removed in the future, favoured retaining current arrangements until evidence from planned jury research becomes available. This approach to potential reforms was also reflected in the recommendations set out by the Committee in its stage 1 report:

“A clear majority of the Committee supports the intention of the Bill to abolish the not proven verdict but not the proposal in relation to jury majorities. The Committee considers that the latter proposal should be considered alongside the other reforms proposed by Lord Bonomy.³

In the Committee's view, Mr McMahon has effectively acknowledged that removal of the not proven verdict requires consideration of wider issues relating to decision-making by juries by proposing in the Bill parallel reforms in relation to jury majorities. The Committee understands the reasons for Mr McMahon including this measure in the Bill but notes the opposition to this proposal that arose in written evidence. In our view, this underlines the benefit of further research on decision-making by juries before proceeding with the reforms set out in the Bill.

The Committee hopes that the research on juries announced by the Scottish Government will proceed soon.

² See paragraph 16 to 18 of the policy memorandum published along with the Bill.

³ The [Post-corroboration Safeguards Review](#) (also referred to as the Bonomy Review) was established to consider what additional measures might be needed in light of the planned abolition of the requirement for corroboration in criminal cases.

A majority of the Committee is therefore unable to support the general principles of the Bill.” (p 15)

As noted above, the Bill fell at stage 1 after a majority of MSPs voted against a motion seeking the agreement of the Parliament to its general principles.

Frazer McCallum
Senior Researcher