



Habeas Corpus Act 1679

1679 CHAPTER 2 31 Cha 2

II How Writs to be marked. Persons committed, except for Treason and Felony, &c. may appeal to the Lord Chancellor, &c. Proceedings thereon. Habeas Corpus may be awarded; and upon Service thereof the Officer to bring up the Prisoners as before mentioned; and thereupon within Two Days Lord Chancellor, &c. may discharge upon Recognizance; and certify the Writ with the Return and Recognizance. Proviso for Process notailable.

[^{X1}And to the intent that noe Sheriffe Goaler or other Officer may pretend ignorance of the import of any such Writt all such Writts shall be marked in this manner Per Statutum Tricesimo primo Caroli Secundi Regis and shall be signed by the person that awards the same] And if any person or persons shall be or stand committed or detained as aforesaid for any Crime unlesse for Treason . . . ^{F1} plainly expressed in the Warrant of Commitment in the Vacation time and out of Terme it shall and may be lawfull to and for the person or persons soe committed or detained (other then persons Convict or in Execution) by legall Processe or any one [^{X2}in] his or their behalfe to appeale or complaine to ^{F2}... any one of His Majestyes Justices [^{X3}either] of the one Bench or of the other or the Barons of the Exchequer of the Degree of the Coife and the said ^{F3}... Justices or Barons or any of them upon view of the Copy or Copies of the Warrant or Warrants of Commitment and Detainer or otherwise upon Oath made that such Copy or Copyes were denyed to be given by such person or persons in whose Custodie the Prisoner or Prisoners is or are detained are hereby authorized and required [^{X1}upon Request made in Writeing by such person or persons or any on his her or their behalfe attested and subscribed by two Witnesses [^{X4}that] were present at the delivery of the same] to award and grant an Habeas Corpus under the Seale of such Court whereof he shall then be one of the Judges to be directed to the Officer or Officers in whose Custodie the Party soe committed or detained shall be returnable immediate before ^{F4}... such Justice Baron or any other Justice or Baron of the Degree of the Coife of any of the said Courts and upon Service thereof as aforesaid the Officer or Officers his or their Under-Officer or Under Officers Under Keeper or Under Keepers or [^{X5}their] Deputy in whose custodie the Partie is soe committed or detained shall within the times respectively before limited [^{X3}bring such Prisoner or Prisoners] before ^{F4}... such Justices Barons or one of them [^{X1}before whome the said Writt is made returnable and in case of his absence before any other of them] with the Returne of such Writt and the true Causes of the Commitment and Detainer and thereupon within two dayes after

Changes to legislation: There are currently no known outstanding effects for the Habeas Corpus Act 1679, Section II. (See end of Document for details)

the Partie shall be brought before them the said Lord Chauncellor or Lord Keeper or such Justice or Baron before whome the Prisoner shall be brought as aforesaid shall ^{F5}, subject to section 25 of the Criminal Justice and Public Order Act 1994, ^{F6} grant bail in accordance with the ^{M1}Bail Act 1976 to the said prisoner subject to a duty to appear before ^{F7}the Crown Court] and then shall certify the said Writt with the Returne thereof ^{F6}together with the recognizance of any surety for him] into the said Court where such Appearance is to be made unlesse it shall appeare unto the said ^{F8}... Justice or Justices ^{X5}or] Baron or Barons that the Party soe committed is detained upon a legall Processe Order or Warrant out of some Court that hath Jurisdiction of Criminall Matters or by some Warrant signed and sealed with the Hand and Seale of any of the said Justices or Barons or some Justice or Justices of the Peace for such Matters or Offences for the which by the Law the Prisoner is not Baileable.

Editorial Information

- X1 annexed to the Original Act in a separate Schedule.
- X2 Variant reading of the text noted in *The Statutes of the Realm* as follows: on.
- X3 interlined on the Roll.
- X4 Variant reading of the text noted in *The Statutes of the Realm* as follows: who O. [O. refers to a collection in the library of Trinity College, Cambridge]
- X5 Variant reading of the text noted in *The Statutes of the Realm* as follows: O. omits [O. refers to a collection in the library of Trinity College, Cambridge]

Textual Amendments

- F1 Words repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)
- F2 Words in s. 2 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 4\(a\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 30\(b\)](#)
- F3 Words in s. 2 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 4\(b\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 30\(b\)](#)
- F4 Words in s. 2 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 4\(c\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 30\(b\)](#)
- F5 Words in s. II inserted (10.4.1995) by 1994 c. 33, s. 168(2), [Sch. 10 para. 1](#); S.I. 1995/721, [art. 2](#), [Sch. Appendix A](#)
- F6 Words substituted by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 1](#)
- F7 Words substituted by [Courts Act 1971 \(c. 23\)](#), [Sch. 8 para. 4\(1\)](#)
- F8 Words in s. 2 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 4\(d\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 30\(b\)](#)

Modifications etc. (not altering text)

- C1 References to Barons of the Exchequer to be construed as references to a judge of the High Court: [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), [ss. 18, 224\(1\)](#)

Marginal Citations

- M1 [1976 c. 63](#).

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