



Habeas Corpus Act 1679

1679 CHAPTER 2 31 Cha 2

An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas.

^{X1}Recital that Delays had been used by Sheriffs in making Returns of Writs of Habeas Corpus, &c.

WHEREAS great Delayes have beene used by Sheriffes Goalers and other Officers to whose Custody any of the Kings Subjects have beene committed for criminall or supposed criminall Matters in makeing Returnes of Writts of Habeas Corpus to them directed by standing out an Alias and Pluries Habeas Corpus and sometimes more and by other shifts to avoid their yeilding Obedience to such Writts contrary to their Duty and the knowne Lawes of the Land whereby many of the Kings Subjects have beene and hereafter may be long detained in Prison in such Cases where by Law they are baylable to their great charge and vexation.

Editorial Information

- X1** Abbreviations or contractions in the original form of this Act have been expanded into modern lettering in the text set out above and below.

Modifications etc. (not altering text)

- C1** Short title given by [Short Titles Act 1896 \(c. 14\)](#)

[I.] Sheriff, &c. within Three Days after Service of Habeas Corpus, with the Exception of Treason and Felony, as and under the Regulations herein mentioned, to bring up the Body before the Court to which the Writ is returnable; and certify the true Causes of Imprisonment. Exceptions in respect of Distance.

For the prevention whereof and the more speedy Releife of all persons imprisoned for any such criminall or supposed criminall Matters whensoever any person or persons shall bring any Habeas Corpus directed unto any Sheriffe or Sheriffes Goaler Minister or other Person whatsoever for any person in his or their Custody and the said Writt shall be served upon the said Officer or left at the Goale or Prison with any of the

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Under Officers Underkeepers or Deputy of the said Officers or Keepers that the said Officer or Officers his or their Under Officers Under-Keepers or Deputyes shall within Three dayes after the Service thereof as aforesaid (unlesse the Commitment aforesaid were for Treason . . . ^{F1} plainly and specially expressed in the Warrant of Commitment) [^{X2}upon Payment or Tender of the Charges of bringing the said Prisoner to be ascertained by the Judge or Court that awarded the same and endorsed upon the said Writt not exceeding Twelve penceper Mile] and upon Security given by his owne Bond to pay the Charges of carrying backe the Prisoner if he shall bee remanded by the Court or Judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way make Returne of such Writt [^{X3}or] bring or cause to be brought the Body of the Partie soe committed or restrained unto or before the Lord Chauncellor or Lord Keeper of the Great Seale of England for the time being or the Judges or Barons of the said Court from whence the said Writt shall issue or unto and before such other person [^{X4}and] persons before whome the said Writt is made returnable according to the Command thereof, and shall [^{X5}likewise then] certifie the true causes of his Detainer or Imprisonment unlesse the Commitment of the said Partie be in any place beyond the distance of Twenty miles from the place or places where such Court or Person is or shall be resideing and if beyond the distance of Twenty miles and not above One hundred miles then within the space of Ten dayes and if beyond the distance of One hundred miles then within the space of Twenty dayes after such (^{X6}) delivery aforesaid and not longer.

Editorial Information

- X2 annexed to the Original Act in a separate Schedule.
- X3 Variant reading of the text noted in *The Statutes of the Realm* as follows: and *O*. [*O*. refers to a collection in the library of Trinity College, Cambridge]
- X4 Variant reading of the text noted in *The Statutes of the Realm* as follows: or *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: then likewise *O*. [*O*. refers to a collection in the library of Trinity College, Cambridge]
- X6 Variant reading of the text noted in *The Statutes of the Realm* as follows: the *O*. [*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](#)

Modifications etc. (not altering text)

- C2 Reference to twelvecence to be read as reference to 5p: [Decimal Currency Act 1969 \(c. 19, SIF 10\)](#), [s. 10\(1\)](#)

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.

[^{X7}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

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detained as aforesaid for any Crime unlesse for Treason . . . ^{F2} plainly expressed in the Warrant of Committment 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 [^{X8}in] his or their behalfe to appeale or complaine to the Lord Chauncellour or Lord Keeper or any one of His Majestyes Justices [^{X9}either] of the one Bench or of the other or the Barons of the Exchequer of the Degree of the Coife and the said Lord Chauncellor Lord Keeper Justices or Barons or any of them upon view of the Copy or Copies of the Warrant or Warrants of Committment 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 [^{X7}upon Request made in Writeing by such person or persons or any on his her or their behalfe attested and subscribed by two Witnesses [^{X10}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 the said [^{X9}Lord Chauncellor or] Lord Keeper or 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 [^{X11}their] Deputy in whose custodie the Partie is soe committed or detained shall within the times respectively before limited [^{X9}bring such Prisoner or Prisoners] before the said Lord Chauncellor or Lord Keeper or such Justices Barons or one of them [^{X7}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 Committment and Detainer and thereupon within two dayes after 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 [^{F3}grant bail in accordance with the ^{M1}Bail Act 1976 to the said prisoner subject to a duty to appear before][^{F4}the Crown Court] and then shall certifie the said Writt with the Returne thereof [^{F3}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 Lord Chauncellor or Lord Keeper or Justice or Justices [^{X11}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

- X7 annexed to the Original Act in a separate Schedule.
- X8 Variant reading of the text noted in *The Statutes of the Realm* as follows: on.
- X9 interlined on the Roll.
- X10 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]
- X11 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

- F2 Words repealed by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)
- F3 Words substituted by [Bail Act 1976 \(c. 63\)](#), [Sch. 2 para. 1](#)
- F4 Words substituted by [Courts Act 1971 \(c. 23\)](#), [Sch. 8 para. 4\(1\)](#)

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

Modifications etc. (not altering text)

- C3** 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.](#)

III Habeas Corpus not granted in Vacation to Prisoners who have neglected to pray the same.

[^{X12}Provided always if any person shall have wilfully neglected by the space of two whole Termes after his Imprisonment to pray a Habeas Corpus for his Enlargement such person soe wilfully neglecting shall not have any Habeas Corpus to be granted in Vacation time in pursuance of this Act.]

Editorial Information

- X12** annexed to the Original Act in a separate Schedule.

IV Officer neglecting, &c. to make the said Returnes, &c. or upon Demand to deliver a Copy of Warrant of Commitment; First Offence, Penalty £100. Second Offence, £200 and Incapacity. Judgment at Suit of Party sufficient Conviction.

And if any Officer or Officers his or their Under-Officer or Under-Officers Under-Keeper or Under-Keepers or Deputy shall neglect or refuse to make the Returnes aforesaid or to bring the Body or Bodies of the Prisoner or Prisoners according to the Command of the said Writt within the respective times aforesaid or upon Demand made by the Prisoner or Person in his behalfe shall refuse to deliver or within the space of Six houres after demand shall not deliver to the person soe demanding a true Copy of the Warrant or Warrants of Commitment and Detayner of such Prisoner, which he and they are hereby required to deliver accordingly all and every the Head Goalers and Keepers of such Prisons and such other person in whose Custodie the Prisoner shall be detained shall for the first Offence forfeite to the Prisoner or Partie grieved the summe of One hundred pounds and for the second Offence the summe of Two hundred pounds and shall and is hereby made incapable to hold or execute his said Office, the said Penalties to be recovered by the Prisoner or Partie grieved his Executors or Administrators against such Offender his Executors or Administrators by any Action or Information in any of the Kings Courts at Westminster wherein noe . . .
^{F5} Injunction . . .^{F5} or stay of Prosecution by Non vult ulterius prosequi or otherwise shall bee admitted or allowed . . .^{F5}, and any Recovery or Judgement at the Suite of any Partie grieved shall be a sufficient Conviction for the first Offence and any after Recovery or Judgement at the Suite of a Partie grieved for any Offence after the first Judgement shall bee a sufficient Conviction to bring the Officers or Person within the said Penaltie for the second Offence.

Textual Amendments

- F5** Words repealed by virtue of [Statute Law Revision Act 1948 \(c. 62\), s. 4\(a\)](#)

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Modifications etc. (not altering text)

- C4 Reference to the Kings Courts at Westminster to be construed as reference to the Royal Courts of Justice: [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 224\(1\)](#)

V Proviso as to Imprisonment of Party after having been set at large upon Habeas Corpus. Unduly recommitting such discharged Persons or assisting therein; Penalty to the Party £500.

And for the prevention of unjust vexation by reiterated Commitments for the same Offence noe person or persons which shall be delivered or sett at large upon any Habeas Corpus shall at any time hereafter bee againe imprisoned or committed for the same Offence by any person or persons whatsoever other then by the legall Order and Processe of such Court wherein he or they shall be bound . . . ^{F6} to appeare or other Court haveing Jurisdiction of the Cause and if any other person or persons shall knowingly contrary to this Act recommit or imprison or knowingly procure or cause to be recommitted or imprisoned for the same Offence or pretended Offence any person or persons delivered or sett at large as aforesaid or be knowingly aiding or assisting therein then he or they shall forfeite to the Prisoner or Party grieved the summe of Five hundred pounds Any colourable pretence or variation in the Warrant or Warrants of Commitment notwithstanding to be recovered as aforesaid.

Textual Amendments

- F6 Words repealed by [Bail Act 1976 \(c. 63\), Sch. 3](#)

VI ^{F7}

Textual Amendments

- F7 [S. 6](#) repealed by [Courts Act 1971 \(c. 23\), Sch. 11 Pt. IV](#)

VII Proviso respecting Persons charged in Debt, &c.

[^{X13}Provided always That nothing in this Act shall extend to discharge out of Prison any person charged in Debt or other Action or with Processe in any Civill Cause but that after he shall be discharged of his Imprisonment for such his Criminall Offence he shall be kept in Custodie according to Law for such other Suite.]

Editorial Information

- X13 annexed to the Original Act in a separate Schedule.

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VIII Persons committed for criminal Matter not to be removed but by Habeas Corpus or other legal Writ. Unduly making out, &c. Warrant for Removal; Penalty.

Provided alwaies That if any person or persons Subject of this Realme shall be committed to [^{X14}any] Prison or in Custodie of any Officer or Officers whatsoever for any Criminall or supposed Criminall matter That the said person shall not be removed from the said Prison and Custody into the Custody of any other Officer or Officers unlesse it be by Habeas Corpus or some other Legall Writt or where the Prisoner is delivered to the Constable or other inferiour Officer to carry such Prisoner to some Common [^{X15}Goale or where any person is sent by Order of any [^{F8}judge of the Crown Court] or Justice of the Peace to any common Worke-house or House of Correction or where the Prisoner is removed from one Prison or place to another within the same County in order to his or her Tryall or Discharge in due course of Law or in case of suddaine Fire or Infection or other necessity] and if any person or persons shall after such Commitment aforesaid make out and signe or countersigne any Warrant or Warrants for such removeall aforesaid contrary to this Act as well he that makes or signes or countersignes such Warrant or Warrants as the Officer or Officers that obey or execute the same shall suffer and incurr the Paines and Forfeitures in this Actbefore-mentioned both for the first and second Offence respectively to be recovered in manner aforesaid by the Partie grieved.

Editorial Information

X14 interlined on the Roll.

X15 annexed to the Original Act in a separate Schedule.

Textual Amendments

F8 Words substituted by [Courts Act 1971 \(c. 23\)](#), [Sch. 8 para. 4\(2\)](#)

IX Proviso for Application for and granting Habeas Corpus in Vacation-time. Lord Chancellor, &c. unduly denying Writ; Penalty to Party £500.

Provided alsoe That it shall and may be lawfull to and for any Prisoner and Prisoners as aforesaid to move and obtaine his or their Habeas Corpus as well out of the High Court of Chauncery or Court of Exchequer as out of the Courts of Kings Bench or Common Pleas of either of them And if the said Lord Chauncellor or Lord Keeper or any Judge or Judges Baron or Barons for the time being of the Degree or the Coife of any of the Courts aforesaid in the Vacation time upon view of the Copy or Copies of the Warrant or Warrants of Commitment or Detainer or upon Oath made that such Copy or (^{X16}) Copyes were denied as aforesaid shall deny any Writt of Habeas Corpus by this Act required to be granted being moved for as aforesaid they shall severally forfeite to the Prisoner or Partie grieved the summe of Five hundred pounds to be recovered in manner aforesaid.

Editorial Information

X16 Variant reading of the text noted in *The Statutes of the Realm* as follows: or *O*. [*O*. refers to a collection in the library of Trinity College, Cambridge]

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Modifications etc. (not altering text)

- C5** Reference to Courts of Chancery, King's Bench, Common Pleas and Exchequer to be construed as reference to the High Court: [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), ss. 18, 224\(1\)](#)

X Habeas Corpus may be directed into Counties Palatine, &c.

And an Habeas Corpus according to the true intent and meaning of this Act may be directed and runn into any County Palatine The Cinque Ports or other priviledged Places within the Kingdome of England Dominion of Wales or Towne of Berwicke upon Tweede and the Islands of Jersey or Guernsey Any Law or Usage to the contrary notwithstanding.

XI No subject to be sent Prisoner into Scotland, &c. or any Parts beyond the Seas. Persons so imprisoned may maintain Action against the Person committing or otherwise acting in respect thereof, as herein mentioned; Treble Costs and Damages; and the Person so committing or acting disabled from Office, and incur Premunire 16 R. 11. c. 5. and be incapable of Pardon.

And for preventing illegall Imprisonments in Prisons beyond the Seas noe Subject of this Realme that now is or hereafter shall be an Inhabitant of Resiant of this Kingdome of England Dominion of Wales or Towne of Berwicke upon Tweede shall or may be sent Prisoner into Scotland Ireland Jersey Gaurney Tangeir or into any Parts Garrisons Islands or Places beyond the Seas which are or at any time hereafter [^{X17}shall be] within or without the Dominions of His Majestie His Heires or Successors and that every such Imprisonment is hereby enacted and adjudged to be illegall and that if any of the said Subjects now is or hereafter shall bee soe imprisoned [^{X17}every such person and persons soe imprisoned] shall and may for every such Imprisonment maintaine by vertue of this Act an Action or Actions of false Imprisonment in any of His Majestyes Courts of Record against the person or persons by whome he or she shall be soe committed detained imprisoned sent Prisoner or transported contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale or countersigne any Warrant or Writeing for such Committment Detainer Imprisonment or Transportation or shall be adviseing aiding or assisting in the same or any of them and the Plaintiffe in every such Action shall have Judgement to recover his . . . ^{F9} Costs besides Damages which Damages soe to be given shall not be lesse then Five hundred pounds In which Action noe delay stay or stopp of Proceeding by Rule Order or Command nor noe Injunction . . . ^{F10} whatsoever . . . ^{F9} shall be allowed [^{X18}excepting such Rule of the Court wherein the Action shall depend made in open Court as shall bee thought in Justice necessary for speciall cause to be expressed in the said Rule] and the person or persons who shall knowingly frame contrive write seale or countersigne any Warrant for such Committment Detainer or Transportation or shall soe committ detaine imprison or transport any person or persons contrary to this Act or be any wayes adviseing aiding or assisting therein being lawfully convicted thereof shall be disabled from thenceforth to beare any Office of Trust or Proffitt within the said Realme of England Dominion of Wales or Towne of Berwicke upon Tweede or any of the Islands Territories or Dominions thereunto belonging and [^{F11}be liable to imprisonment for life] and be incapeable of any Pardon from the King His Heires or Successors of the said . . . ^{F12} Disabilities or any of them.

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Editorial Information

- X17 interlined on the Roll.
- X18 annexed to the Original Act in a separate Schedule.

Textual Amendments

- F9 Words repealed by [Statute Law Revision Act 1948 \(c. 62\)](#)
- F10 Words repealed by virtue of [Statute Law Revision Act 1948 \(c. 62\), s. 4\(a\)](#)
- F11 Words substituted by [Criminal Law Act 1967 \(c. 58\), Sch. 4 Pt. III para. 1](#)
- F12 Words repealed by [Criminal Law Act 1967 \(c. 58\), Sch. 3 Pt. III](#)

XII, F13
XIII.

Textual Amendments

- F13 [Ss. 12, 13](#) repealed by [Statute Law Revision Act 1948 \(c. 62\)](#)

XIV F14

Textual Amendments

- F14 [S. 14](#) repealed by [Statute Law Revision Act 1863 \(c. 125\)](#)

XV Proviso for sending Persons to be tried in Places where any Capital Offence committed.

Provided alsoe That if any person or persons at any time resiant in this Realme shall have committed any Capitall Offence in Scotland or Ireland or any of the Islands or Forreigne Plantations of the King His Heires or Successors where he or she ought to be tryed for such Offence such person or persons may be sent to such place there to receive such Tryall in such manner as the same might have benee used before the making of this Act Any thing herein contained to the contrary notwithstanding.

XVI Limitation of Prosecution for Offences against this Act.

Provided alsoe That noe person or persons shall be sued impleaded molested or troubled for any Offence against this Act unless the Partie offending be sued or impleaded for the same within Two yeares at the most after such time wherein the Offence shall be committed [^{X19}in case the partie grieved shall not be then in Prison and if he shall be in Prison then within the space of Two yeares] after the decease of the Person imprisoned or his or her delivery out of Prison which shall first happen.

Editorial Information

- X19 annexed to the Original Act in a separate Schedule.

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XVII, **F15**
XVIII.

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Textual Amendments

F15 Ss. 17, 18 repealed by Courts Act 1971 (c. 23), **Sch. 11 Pt. IV**

XIX **F16**

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Textual Amendments

F16 S. 19 repealed by Public Authorities Protection Act 1893 (c. 61), **Sch.**

XX **F17**

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Textual Amendments

F17 S. 20 repealed by Criminal Law Act 1967 (c. 58), **Sch. 3 Pt. III**

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