



# Habeas Corpus Act (Ireland) 1781 (I)

## 1781 CHAPTER 11 21 and 22 Geo 3

An Act for better securing the Liberty of the Subject.

### Modifications etc. (not altering text)

- C1 Act extended by [Habeas Corpus Act 1816 \(c. 100\), s. 6](#)
- C2 Jurisdiction of Courts of Chancery, Kings Bench, Exchequer and Common Pleas now exercisable by High Court of Justice in Northern Ireland and functions of barons of the Exchequer transferred to Judges of that Court: [Supreme Court of Judicature Act \(Ireland\) 1877 \(c. 57\), ss. 4, 6, 21\(1\), 36](#), [Supreme Court of Judicature \(Ireland\) \(No. 2\) Act 1897 \(c. 66\), s. 1](#), [Government of Ireland Act 1920 \(c. 67\) ss. 38, 40, 41, S.R.&O. 1921/1802, 1804 \(Rev. XVI, pp. 954, 967: 1921 pp. 1332, 422\) and Judicature \(Northern Ireland\) Act 1978 \(c. 23\), ss. 2\(2\), 12\(1\), 16\(2\), Sch. 5 para. 1](#)
- C3 Sheriff to be construed as under-sheriff: S.R.&O. 1922/42 (1922, p. 1005), art. 3
- C4 Judicial functions of Lord Chancellor transferred to Lord Chief Justice of Northern Ireland or in his absence the Senior Lord Justice of Appeal and executive functions transferred to Secretary of State: [Interpretation Act 1889 \(c. 63\), s 12\(1\)](#), [Government of Ireland Act 1920 \(c. 67\), s 44\(2\)](#), [Irish Free State \(Consequential Provisions\) Act 1922 \(13 Geo. 5 Sess. 2 c. 2\), Schs. 1, 2, S.R.&O. 1921/1802, 1804 \(Rev. XVI, pp. 954, 967: 1921, pp. 1332, 442\) 1927/342 \(Rev. XVI, p. 966: 1927, p. 1744\) and Northern Ireland Constitution Act 1973 \(c. 36\), Sch. 5](#)
- C5 Functions of justices of the peace transferred to resident magistrates: [Summary Jurisdiction and Criminal Justice Act \(Northern Ireland\) 1935 \(c. 13\), s. 3](#) and [Magistrates' Courts Act \(Northern Ireland\) 1964 \(c. 21\)](#)
- C6 Short title given by [Short Titles Act \(Northern Ireland\) 1951 \(c. 1\)](#)

### Preamble.

WHEREAS as the law now stands great delays may be used by sheriffs, gaolers, and other officers to whose custody any of the King's subjects may be committed for criminal or supposed criminal matters, in making return of writs 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 yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the King's subjects may be long detained in prison, in such cases where by law they are bailable, to their great charges and vexation: for the prevention whereof, and the more speedy relief of all persons in prison for any such criminal or supposed criminal matters.

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**[I.] Any person bringing H. C. directed to any sheriff, &c. for any person in their custody, sheriff, gaoler, &c. 3 days after service of said H. C. (except committed for treason) on security given, and tender of expences of removing and returning said prisoner if remanded, make return of said writ, and bring up the body, and certify cause of imprisonment.**

Whenever any person or persons shall bring any habeas corpus directed to any sheriff or sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served on the said officer or left at the gaol or prison with any of the under-officers, under-keepers, or deputy of the said officers or keepers, that the said officer or officers, his or their under officers, under keepers, or deputies, shall within three days after the service thereof as aforesaid, (unless the commitment aforesaid were for treason [<sup>F1</sup>or any arrestable offence], plainly and specially expressed in the warrant of commitment) 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 writ, not exceeding six pence per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner if he shall be remanded by the court or Judges, to which he shall be brought, according to the true intent and meaning of this act, and that he will not make any escape by the way, make return of such writ, and bring or cause to be brought the body of the party so committed or restrained unto, or before the lord chancellor . . . <sup>F2</sup>, or the judges or barons of the said court from whence the said writ shall issue, or unto or before such other person and persons before whom the said writ is made returnable, according to the command thereof, and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing, and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles then within the space of twenty days after such the delivery aforesaid, and not longer.

**Textual Amendments**

- F1** Words substituted by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\), Sch. 1 para. 3](#)  
**F2** Words repealed by [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\), Sch. Pt. I](#)

**Modifications etc. (not altering text)**

- C7** [S. 1](#): the reference to six pence shall be read as referring to the equivalent amount in the new currency by virtue of [Decimal Currency Act 1969 \(c. 19 SIF 10\)](#), s. 10(1)

**II Writs of H. C. how marked. Person imprisoned during vacation, may complain to lord chancellor &c. who on view of copy of warrant of commitment and oath that such copy was denied to prisoner, and request in writing subscribed by 2 witnesses present at delivery thereof, grant a H. C. to sheriff and returnable immediately, and on service thereof, sheriff &c. shall bring such prisoner up, and said lord chancellor shall discharge said prisoner, taking security for his appearance at K. B. assizes, &c. and certify said writ, and return recognizance to court where appearance to be.**

And to the end that no sheriff, gaoler, or other officer may pretend ignorance of the import of any such writ, all such writs shall be marked in this manner by the statute of the twenty second year of the reign of King George the third, and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed

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or detained as aforesaid for any crime, unless for [<sup>F3</sup>any arrestable offence or] treason, plainly expressed in the warrant of commitment in the vacation time and out of term, it shall and may be lawful to and for the person or persons so committed or detained, (other than persons convict or in execution by legal process) or any one in his or their behalf, to appeal or complain to the lord chancellor, . . . <sup>F4</sup>, or any one of his Majesty's justices, either of the one bench or the other, or the barons of the Exchequer; and the said lord chancellor, . . . <sup>F4</sup>, 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 copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, and hereby authorized and required, upon request made in writing by such person or persons, or any one on his, her, or their behalf attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an habeas corpus under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be returnable immediately before the said lord chancellor, . . . <sup>F4</sup>, or such justice, baron, or any other justice or baron 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 deputy, in whose custody the party is so committed or detained, shall, within the times respectively before limited, bring such prisoner or prisoners before the said lord chancellor . . . <sup>F4</sup>, or such justices, barons, or one of them before whom the said writ is made returnable; and in case of his absence before any other of them, with the return of such writ, and the true causes of the commitment and detainer, and thereupon within two days after the party shall be brought before them, the said lord chancellor . . . <sup>F4</sup>, or such justice or baron before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions, having regard to the quality of the prisoner and nature of the offence, for his or their appearance [<sup>F5</sup>in the Crown Court], and then shall certify the said writ, with the return thereof, and the said recognizance or recognizances, into the said court where such appearance is to be made, unless it shall appear unto the said lord chancellor . . . <sup>F4</sup>, justice or justices, baron or barons, that the party so committed is detained upon a legal process, order, or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons, or some justice or justices of the peace, for such matters or offences for which by law the prisoner is not bailable.

#### Textual Amendments

- F3** Words substituted by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 1 para. 3](#)
- F4** Words repealed by [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\)](#), [Sch. Pt. I](#)
- F5** Words substituted by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 5 Pt. II](#)

### III Any prisoner not applying for two terms for H. C. shall not have one during vacation.

Provided always, That if any person shall have wilfully neglected by the space of two whole terms after his imprisonment to pray a habeas corpus for his enlargement, such person so wilfully neglecting, shall not have any habeas corpus to be granted in vacation time, in pursuance of this act.

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**IV Any officer, &c. neglecting to return as aforesaid, or bring up the body according to command of writ, or on demand, or 6 hours after, refuse copy of commitment, shall for 1st offence forfeit £100 to party aggrieved, 2nd offence £200 and rendered incapable, penalties recovered by action of debt, &c. wherein no injunction, &c. allowed, and recovery by party grieved sufficient conviction for 1st offence, and any after recovery shall bring officer, &c. under penalty for 2nd offence.**

And if any officer or officers, his or their under-officer or under-officers, or under-keeper or under-keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners, according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner, or any other person in his behalf, shall refuse to deliver, or within the space of six hours after demand, shall not deliver to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head gaolers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner, or party aggrieved, the sum of one hundred pounds, and for the second offence the sum 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 party aggrieved, his executors or administrators, against such offender, or his executors or administrators, by any action of debt, suit, bill, plaint, or information in any of his Majesty's courts at Dublin, wherein no injunction, or stay of prosecution, by non vult ulterius prosequi, or otherwise, shall be admitted or allowed; and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence: and any after recovery or judgment at the suit of a party grieved for any offence, after the first judgment, shall be a sufficient conviction to bring the officer or persons within the said penalty for the second offence.

**V And to prevent frequent commitments for same offence, no person enlarged by H. C. shall be committed for same offence, except by court having jurisdiction, and if any other person shall recommit said prisoner for same offence, or be aiding &c. thereto, shall forfeit to party grieved £500.**

And for the prevention of unjust vexation by reiterated commitments for the same offence; no person or persons who shall be delivered or set at large upon any habeas corpus, shall at any time hereafter be again imprisoned or committed for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having 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 set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved, the sum of five hundred pounds, any colourable pretence or variation in the warrant or warrants of commitment notwithstanding, to be recovered as aforesaid.

**VI .....** F6

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**Textual Amendments**

**F6** Ss. 6, 9, 11, 12 repealed by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 7 Pt II](#)

**VII Nothing herein to discharge any person for debt, &c.**

Provided always, That nothing in this act shall extend to discharge out of prison any person charged in debt or other action, or with process in any civil cause; but that after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law for such other suit.

**VIII Persons committed for criminal offences not removeable but by habeas corpus or legal writ, &c. and persons after such commitment make or sign any warrant for removal, and the officer that obeys such warrant, shall incur the penalties aforesaid.**

Provided always, That if any person or persons subjects of this realm, shall be committed to any prison, or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, the said person shall not be removed from the said prison and custody into the custody of any other officer or officers, unless it be by habeas corpus or some other legal writ, or where the prisoner is delivered to the constable or other inferior officer to carry such prisoner to some <sup>F7</sup>[prison], or where any person is sent by order of any <sup>F8</sup>[judge of the Crown Court] or justice of the peace to . . . <sup>F9</sup>[<sup>F7</sup>prison], or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of sudden fire or infection, or other necessity; and if any person or persons shall after such commitment aforesaid, make out and sign or counter-sign any warrant or warrants for such removal aforesaid, contrary to this act, as well he that makes or signs, or counter-signs such warrant or warrants, as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid, by the party grieved.

**Textual Amendments**

**F7** Words substituted by virtue of [Prison Act \(Northern Ireland\) 1953 \(c. 18\)](#), [s. 45](#)

**F8** Words substituted by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 5 Pt. II](#)

**F9** Words repealed by [Statute Law Revision \(Northern Ireland\) Act 1980 \(c. 59\)](#), [Sch. Pt. XII](#)

**IX** ..... <sup>F10</sup>

**Textual Amendments**

**F10** Ss. 6, 9, 11, 12 repealed by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 7 Pt II](#)

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**X Suits under this act to be brought in 2 years after offence committed, except party grieved in prison, then in 2 years from delivery or decease.**

Provided always, That no person or persons shall be sued, impleaded, molested or troubled for any offence against this act, unless the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed, in case the party grieved shall not be then in prison, and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

**XI,** ..... <sup>F11</sup>  
**XII.**

.....  
**Textual Amendments**  
**F11** Ss. 6, 9, 11, 12 repealed by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), [Sch. 7 Pt II](#)

**XIII** ..... <sup>F12</sup>

.....  
**Textual Amendments**  
**F12** S. 13 repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)

**XIV** ..... <sup>F13</sup>

.....  
**Textual Amendments**  
**F13** S. 14 repealed by [Statute Law Revision \(Ireland\) Act 1879 \(c. 24\)](#)

**XV Persons committed for being accessory before the fact to petty treason, felony, or murder, &c. not intitled to benefit of this act.**

..... <sup>F14</sup> where any person shall appear to be committed by any judge or justice of the peace, and charged [<sup>F15</sup>with any arrestable offence, which offence] shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this act, or in any other manner than they might have been before the making of this act.

.....  
**Textual Amendments**  
**F14** Words repealed by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 2 Pt. II](#)  
**F15** Words substituted by [Criminal Law Act \(Northern Ireland\) 1967 \(c. 18\)](#), [Sch. 1 para. 3](#)

**XVI** ..... <sup>F16</sup>

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**Textual Amendments**

**F16** S. 16 repealed by [Government of Ireland Act 1920 \(c. 67\), s. 67](#)

**Status:**

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