



# Police (Scotland) Act 1967 (repealed)

## 1967 CHAPTER 77

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Offences and legal proceedings*

#### **41 Assaults on constables, etc.**

(1) Any person who—

- (a) assaults, resists, obstructs, molests or hinders a constable in the execution of his duty or a person assisting a constable in the execution of his duty, or
- (b) rescues or attempts to rescue, or assists or attempts to assist the escape of, any person in custody,

shall be guilty of an offence and on summary conviction shall be liable—

- (i) where he has not, within the period of two years immediately preceding the commission of the said offence, been convicted of an offence against this section, to a fine not exceeding [<sup>F1</sup>level 4 on the standard scale] or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment;
- (ii) where he has, within the first-mentioned period, been convicted of an offence against this section, to imprisonment for a period not exceeding nine months [<sup>F2</sup> or to a fine not exceeding the prescribed sum within the meaning of [<sup>F3</sup>section 225(8) of the Criminal Procedure (Scotland) Act 1995], or to both.]

(2) The reference in subsection (1) of this section to a person in custody shall be construed as a reference to a person—

- (a) who is in the lawful custody of a constable or any person assisting a constable in the execution of his duty, or
- (b) who is in the act of eluding or escaping from such custody, whether or not he has actually been arrested.

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- [<sup>F4</sup>(3) This section also applies to a constable who is a member of a police force maintained in England and Wales or in Northern Ireland when he is executing a warrant or otherwise acting in Scotland by virtue of any enactment conferring powers on him in Scotland.]
- [<sup>F5</sup>(4) In this section references to a person assisting a constable in the execution of his duty include references to any person who is neither a constable nor in the company of a constable but who—
- (a) is a member of an international joint investigation team that is led by a constable of a police force or by a member of the National Criminal Intelligence Service or of the National Crime Squad; and
  - (b) is carrying out his functions as a member of that team.
- (5) In this section “international joint investigation team” means any investigation team formed in accordance with—
- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
  - (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
  - (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.
- (6) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F1** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and by [1995 c. 40, ss. 3, 7\(2\)](#), [Sch. 1 para. 3\(1\)](#), [Sch. 2 Pt. II](#) it is provided (1.4.1996) that s. 41(1) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale instead of a fine not exceeding £50
- F2** Words added by [Criminal Justice \(Scotland\) Act 1980 \(c. 62, SIF 39:1\)](#), [s. 57](#)
- F3** Words in s. 41(1)(b)(ii) substituted (1.8.1997) by [1997 c. 48, s. 62\(1\)](#), [Sch. 1 para. 2\(5\)](#); [S.I. 1997/1712, art. 3](#), [Sch.](#)
- F4** S. 41(3) inserted (3.2.1995) by [1994 c. 33, s. 168\(2\)](#), [Sch. 10 para. 18](#); [S.I. 1995/127, art. 2\(1\)](#), [Sch. 1 Appendix B](#)
- F5** S. 41(4)-(6) inserted (1.10.2002) by [2002 c. 30, s. 104\(2\)](#); [S.S.I. 2002/420, art. 2](#)

## 42 Causing disaffection.

- (1) Any person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the constables of any police force [<sup>F6</sup>or of the British Transport Police Force], or who induces, or attempts to induce, or does any act calculated to induce, any constable to withhold his services <sup>F7</sup>. . ., shall be guilty of an offence, and shall be liable—
- (a) on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment;

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- (b) on conviction on indictment, to imprisonment for a period not exceeding two years.
- (2) Any person convicted of an offence against this section shall be permanently disqualified from becoming or remaining a constable [<sup>F8</sup>or a member of the British Transport Police Force].

#### Textual Amendments

- F6** Words in s. 42(1) inserted (7.1.2002) by 2001 c. 24, s. 101, **Sch. 7 para. 5(2)**; S.I. 2001/4104, **art. 2(d)**
- F7** Words in s. 42(1) repealed (1.8.1996) by 1994 c. 29, ss. 63(8), 93, **Sch. 9 Pt. I**; S.I. 1996/1646, art. 2, **Sch.** (with art. 3)
- F8** Words in s. 42(2) inserted (7.1.2002) by 2001 c. 24, s. 101, **Sch. 7 para. 5(3)**; S.I. 2001/4104, **art. 2(d)**

### 43 Impersonation, etc.

- (1) Subject to the provisions of this section, any person who—
- takes the name, designation or character of a constable for the purpose of obtaining admission into any house or other place or of doing or procuring to be done any act which such person would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, or
  - wears any article of police uniform without the permission of the police authority for the police area in which he is, or
  - has in his possession any article of police uniform without being able to account satisfactorily for his possession thereof.

shall be guilty of an offence and on summary conviction shall be liable to a fine not exceeding [<sup>F9</sup>level 4 on the standard scale] or to imprisonment for a period not exceeding three months.

- (2) Nothing in subsection (1) of this section shall make it an offence to wear any article of police uniform in the course of taking part in a stage play, or music hall or circus performance, or of performing in or producing a cinematograph film or television broadcast.

[<sup>F10</sup>(2A) For the purposes of this section—

- “constable” includes a member of the British Transport Police Force, and
- any reference to “police” includes a reference to that force.]

- (3) In this section “article of police uniform” means any article of uniform or any distinctive badge or mark usually issued by any police authority [<sup>F11</sup>or by the British Transport Police Committee] to constables, or any article having the appearance of such article, badge or mark.

[<sup>F12</sup>(4) In its application to articles of British Transport Police Force uniform, subsection (1) (b) has effect as if for the words “without the permission of the police authority for the police area in which he is” there were substituted the words “in circumstances where it gives him an appearance so nearly resembling that of a constable as to be calculated to deceive”.]

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#### Textual Amendments

- F9** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [Sch. 7D](#) and by [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 10, Sch. 2 Pt. III](#) it is provided (1.4.1996) that s. 43(1) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 4 on the standard scale or 3 months instead of a fine not exceeding £50
- F10** [S. 43\(2A\)](#) inserted (7.1.2002) by [2001 c. 24, s. 101, Sch. 7 para. 6\(2\)](#); [S.I. 2001/4104, art. 2\(d\)](#)
- F11** Words in [s. 43\(3\)](#) inserted (7.1.2002) by [2001 c. 24, s. 101, Sch. 7 para. 6\(3\)](#); [S.I. 2001/4104, art. 2\(d\)](#)
- F12** [S. 43\(4\)](#) inserted (7.1.2002) by [2001 c. 24, s. 101, Sch. 7 para. 6\(4\)](#); [S.I. 2001/4104, art. 2\(d\)](#)

#### 44 Offences by constables.

- (1) Any constable who wilfully absents himself from duty otherwise than in accordance with regulations made under Part II of this Act shall be guilty of an offence.
- (2) Any constable who neglects or violates his duty shall be guilty of an offence.
- (3) Any constable who fails without reasonable excuse to return to his chief constable (or other person appointed by the chief constable for the purpose), immediately upon being ordered to do so, any accoutrements or clothing which have been issued to him for the execution of his duty shall be guilty of an offence.
- (4) Any person who has been a constable of a police force and has failed without reasonable excuse to return to the chief constable of that force (or other person appointed by the chief constable for the purpose), when he ceased to be a constable of the force, any accoutrements or clothing which were issued to him for the execution of his duty shall be guilty of an offence.
- (5) Any person guilty of an offence against this section shall, without prejudice to the operation of any regulation made under this Act, or to any civil proceedings, be liable on summary conviction to a fine not exceeding [<sup>F13</sup>level 3 on the standard scale] or to imprisonment for a period not exceeding sixty days.

#### Textual Amendments

- F13** Words substituted by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [Sch. 7D](#) and by [1995 c. 40, ss. 3, 7\(2\), Sch. 1 para. 10, Sch. 2 Pt. III](#) it is provided (1.4.1996) that s. 44(5) shall have effect as if the maximum fine that may be imposed on summary conviction for the offence mentioned therein were a fine not exceeding level 3 on the standard scale or 60 days instead of a fine not exceeding £10

#### 45 Warrant to search for police accoutrements and clothing.

If a sheriff, [<sup>F14</sup>or justice of the peace] is satisfied on information on oath that there has been a failure to return duly any accoutrements or clothing issued to a constable for the execution of his duty, and that any of the said accoutrements or clothing are in any premises or place, he may grant a warrant to any constable named therein to enter and search the said premises or place at any reasonable hour, if necessary by force, and to seize and detain any of the said accoutrements or clothing which he may find therein.

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**Textual Amendments**

**F14** Words substituted by [District Courts \(Scotland\) Act 1975 \(c. 20\)](#), **Sch. 1 para. 32**

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