



# Police (Scotland) Act 1967 (repealed)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 [<sup>F1</sup>or police custody and security officer] in the execution of his duty or a person assisting a constable [<sup>F2</sup>or any such officer] 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—

- <sup>F3</sup>(i) . . . . .
- (ii) <sup>F4</sup>... to imprisonment for a period not exceeding [<sup>F5</sup>12] months [<sup>F6</sup>or to a fine not exceeding the prescribed sum within the meaning of [<sup>F7</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 [<sup>F8</sup>or police custody and security officer] or any person assisting a constable [<sup>F9</sup>or any such officer] 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.

<sup>F10</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.]

*Status: Point in time view as at 10/12/2007.*

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- [<sup>F11</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 <sup>F12</sup> ...; 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 in s. 41(1)(a) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 76(5)(a)(i)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F2** Words in s. 41(1)(a) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 76(5)(a)(ii)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F3** S. 41(1)(i) repealed (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **Sch. 6 para. 1(8)**; S.S.I. 2006/432, art. 2(h)
- F4** Words in s. 41(1)(ii) repealed (1.9.2006) by Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), s. 104(1), **Sch. 6 para. 1(8)**; S.S.I. 2006/432, art. 2(h)
- F5** Word in s. 41(1) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 44(1)**, 84(1) (with s. 44(6)); S.S.I. 2007/479, art. 3, Sch.
- F6** Words added by Criminal Justice (Scotland) Act 1980 (c. 62, SIF 39:1), **s. 57**
- F7** 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.**
- F8** Words in s. 41(2)(a) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 76(5)(b)(i)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F9** Words in s. 41(2)(a) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 76(5)(b)(ii)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F10** 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
- F11** S. 41(4)-(6) inserted (1.10.2002) by 2002 c. 30, **s. 104(2)**; S.S.I. 2002/420, **art. 2**
- F12** Words in s. 41(4)(a) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 4 para. 16, **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. paras. 10, 13(g)

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

- C1** S. 41 modified (26.4.2004) by Crime (International Co-operation) Act 2003 (c. 32), **ss. 84(2)**, 94(1); S.I. 2004/786, art. 3(1)(2)
- C2** S. 41(1)(2) modified (1.4.2005) by Energy Act 2004 (c. 20), **ss. 68(1)**, 198(2); S.I. 2005/877, art. 2(1), Sch. 1

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## 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>F13</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>F14</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;
  - (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>F15</sup>or a member of the British Transport Police Force].
- [<sup>F16</sup>(3) In this section—
- (a) references to the constables of any police force include references to the members of the Civil Nuclear Constabulary; and
  - (b) references to a constable include references to a member of that Constabulary.]

### Textual Amendments

**F13** 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)**

**F14** 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)

**F15** 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)**

**F16** S. 42(3) inserted (1.4.2005) by Energy Act 2004 (c. 20), **ss. 68(4)**, 198(2); S.I. 2005/877, art. 2(1), Sch. 1

### Modifications etc. (not altering text)

**C3** Amended (1.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 5 para. 4**; S.I. 2004/1572, **art. 3(jjj)**

## 43 Impersonation, etc.

- (1) Subject to the provisions of this section, any person who—
- (a) takes the name, designation or character of a constable [<sup>F17</sup>or police custody and security officer] 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
  - (b) wears any article of police uniform without [<sup>F18</sup>being a member of the Civil Nuclear Constabulary or having] the permission of the police authority for the police area in which he is, or
  - (c) 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>F19</sup>level 4 on the standard scale] or to imprisonment for a period not exceeding three months.

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- (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>F20</sup>(2A) For the purposes of this section—
- (a) “ constable ” includes a member of the British Transport Police Force, and
  - (b) 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>F21</sup>or by the Civil Nuclear Police Authority][<sup>F22</sup>or by the British Transport Police Committee] to constables [<sup>F23</sup>or police custody and security officers], or any article having the appearance of such article, badge or mark.
- [<sup>F24</sup>(3A) In its application to articles of the uniform of the Civil Nuclear Constabulary, subsection (1)(b) has effect as if for the words “or having the permission of the police authority for the police area in which he is” there were substituted the words “ and in circumstances where it gives him an appearance so nearly resembling that of a constable as to be calculated to deceive ”.
- (3B) For the purposes of this section—
- (a) “constable” includes a member of the Civil Nuclear Constabulary; and
  - (b) any reference to “police” includes a reference to that Constabulary.]
- [<sup>F25</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”.]

#### Textual Amendments

- F17** Words in s. 43(1)(a) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(6)(a), 89(2)**; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F18** Words in s. 43(1)(b) inserted (1.4.2005) by [Energy Act 2004 \(c. 20\)](#), **ss. 68(5)(a)**, 198(2); [S.I. 2005/877](#), **art. 2(1)**, Sch. 1
- F19** 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
- F20** 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)**
- F21** Words in s. 43(3) inserted (1.4.2005) by [Energy Act 2004 \(c. 20\)](#), **ss. 68(5)(b)**, 198(2); [S.I. 2005/877](#), **art. 2(1)**, Sch. 1
- F22** 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)**
- F23** Words in s. 43(3) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(6)(b), 89(2)**; [S.S.I. 2003/288](#), **art. 2**, Sch.
- F24** S. 43(3A)(3B) inserted (1.4.2005) by [Energy Act 2004 \(c. 20\)](#), **ss. 68(6)**, 198(2); [S.I. 2005/877](#), **art. 2(1)**, Sch. 1
- F25** 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)**

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#### 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 [<sup>F26</sup>or police custody and security officer] who neglects or violates his duty shall be guilty of an offence.
- (3) Any constable [<sup>F27</sup>or any such officer] 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 [<sup>F28</sup>or such an officer] 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 [<sup>F28</sup>or such an officer] 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>F29</sup>level 3 on the standard scale] or to imprisonment for a period not exceeding sixty days.

##### Textual Amendments

- F26** Words in s. 44(2) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(7)(a)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F27** Words in s. 44(3) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(7)(b)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F28** Words in s. 44(4) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(7)(c)**, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F29** 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>F30</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 [<sup>F31</sup>or a police custody and security officer] 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.

##### Textual Amendments

- F30** Words substituted by [District Courts \(Scotland\) Act 1975 \(c. 20\)](#), **Sch. 1 para. 32**
- F31** Words in s. 45 inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 76(8)**, 89(2); S.S.I. 2003/288, art. 2, Sch.

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