

## **HABEAS CORPUS ACT, 1964 (ACT 244)**

### ARRANGEMENT OF SECTIONS

#### Section

1. Application for an order of habeas corpus.
2. Enquiry by High Court.
3. High Court before which body of person to be produced.
4. Release from illegal detention.
5. Appeals.
6. Enactments ceasing to apply.



REPUBLIC OF GHANA

**THE TWO HUNDRED AND FORTY-FOURTH  
ACT  
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA  
ENTITLED  
THE HABEAS CORPUS ACT, 1964**

**AN ACT** to consolidate with amendments the law relating to applications for habeas corpus.

**DATE OF ASSENT:** 26th May, 1964

**BE IT ENACTED** by the President and the National Assembly in this present Parliament assembled as follows:—

Section 1—Application for an Order of Habeas Corpus.

(1) Where an allegation is made by any person that he is being unlawfully detained an application may be made under this section to the High Court or any Judge thereof for an enquiry into the cause of the detention.

(2) The application may be made by—

- (a) the person alleging that he is being unlawfully detained,
- (b) any person entitled to the custody of the person detained,
- (c) any other person acting on behalf of the person detained.

(3) Every such application shall be in writing containing the following particulars:—

- (a) the name and other description of the person detained;
- (b) the place of detention;
- (c) the mode and manner of arrest; and
- (d) any other particulars the applicant may wish to bring before the High Court.

(4) Notwithstanding anything in any enactment or rule of law, where an application has been made to the High Court or a Judge thereof under this section by or on behalf of any person, no

such application shall again be made by or on behalf of that person on the same grounds, whether to the same Court or Judge or to any other Court or Judge, unless fresh evidence is adduced in support thereof.

#### Section 2—Enquiry by High Court.

The High Court or the Judge thereof to whom an application is made under section 1 of this Act shall immediately enquire into the allegation of unlawful detention and may make an order requiring the person in whose custody the applicant (or the person on whose behalf the application is made) is detained,

(a) to produce the body of the person so detained before the High Court on a day specified in the order, and

(b) to submit a report in writing stating the grounds of the detention.

#### Section 3—High Court Before Which Body of Person to be Produced.

The High Court before which the body of a person is to be produced in pursuance of an order made under section 2 of this Act shall, if the Chief Justice or, if he is not available, the Judge of the Supreme Court who is exercising the office of the Chief Justice so directs in respect of any particular case, consist of three Judges, and shall, in every other case, consist of one Judge only.

#### Section 4—Release from Illegal Detention.

(1) The High Court shall, upon the body of the person detained being produced before it and after giving the person in whose custody he is detained an opportunity of justifying the detention, order the release of the person detained unless satisfied that the detention is in accordance with law.

(2) Where the High Court is satisfied that the detention is in accordance with law, but a question arises as to whether such law is in excess of the powers conferred upon Parliament by or under the Constitution, the hearing shall be adjourned and the question referred to the Supreme Court under section (2) of Article 42 of the Constitution for decision.

(3) The Supreme Court may allow the person detained, to be at liberty on bail on such conditions as it thinks fit until the question so referred to it has been decided.

#### Section 5—Appeals.

An appeal shall lie to the Supreme Court, in any proceedings under this Act, against an order for the release of the person detained as well as against the refusal of such an order.

#### Section 6—Enactments Ceasing to Apply.

Each of the following English statutes shall cease to apply in Ghana:—

Session and Chapter			Short title
16 Chas 1, c. 10	..	..	Habeas Corpus Act, 1640
31 Chas. 2, c. 2	..	..	Habeas Corpus Act, 1679
43 Geo. 3, c. 140	..	..	Habeas Corpus Act, 1803

44 Geo. 3, c. 102	..	..	Habeas Corpus Act, 1804
56 Geo. 3, c. 100	..	..	Habeas Corpus Act, 1816
25 Vic. c. 20	..	..	Habeas Corpus Act, 1862.