



Justices of the Peace Act 1979 (repealed 19.6.1997)

1979 CHAPTER 55

PART V

PROTECTION OF JUSTICES AND INDEMNIFICATION OF JUSTICES AND JUSTICES' CLERKS

[^{F1}44 Immunity for acts within jurisdiction.

No action shall lie against any justice of the peace or justice's clerk in respect of any act or omission of his—

- (a) in the execution of his duty—
 - (i) as such a justice; or
 - (ii) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a single justice; and
- (b) with respect to any matter within his jurisdiction.]

Textual Amendments

- F1** S. 44 substituted by [Courts and Legal Services Act 1990 \(c.41, SIF 76:1, 82\)](#), ss. 108(2), 125(6), [Sch. 19 para. 16](#)

[^{F2}45 Immunity for certain acts beyond jurisdiction.

An action shall lie against any justice of the peace or justice's clerk in respect of any act or omission of his—

- (a) in the purported execution of his duty—
 - (i) as such a justice; or
 - (ii) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a single justice; but
- (b) with respect to matter which is not within his jurisdiction,

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if, but only if, it is proved that he acted in bad faith.]

Textual Amendments

F2 S. 45 substituted by Courts and Legal Services Act 1990 (c.41, SIF 76:1, 82), ss. 108(3), 125(6), **Sch. 19 para. 16**

46— ^{F3}
 49.

Textual Amendments

F3 Ss. 46, 47, 48, 49, 51, 52 repealed by Courts and Legal Services Act 1990 (c.41, SIF 82), ss. 108(6) (a)–(f), 125(6)(7), Sch. 19 para. 16, **Sch. 20**

50 Where action prohibited, proceedings may be set aside.

If any action is brought in circumstances in which this Part of this Act provides that no action is to be brought, a judge of the court in which the action is brought may, on the application of the defendant and upon an affidavit as to the facts, set aside the proceedings in the action, with or without costs, as the judge thinks fit.

51, 52. ^{F4}

Textual Amendments

F4 Ss. 46, 47, 48, 49, 51, 52 repealed by Courts and Legal Services Act 1990 (c.41, SIF 82), ss. 108(6) (a)–(f), 125(6)(7), Sch. 19 para. 16, **Sch. 20**

53 Indemnification of justices and justices' clerks.

(1) Subject to the provisions of this section . . . ^{F5}, a justice of the peace or justices' clerk may be indemnified out of local funds in respect of—

- (a) any costs reasonably incurred by him in or in connection with proceedings against him in respect of anything done or omitted in the exercise or purported exercise of the duty of his office, or in taking steps to dispute any claim which might be made in such proceedings;
- (b) any damages awarded against him or costs ordered to be paid by him in any such proceedings; or
- (c) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim;

and shall be entitled to be so indemnified if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.

(2) Any question whether, or to what extent, a person is to be indemnified under this section shall be determined by the magistrates' courts committee for the area for which he acted at the material time; and a determination under this subsection with respect to any such costs or sums as are mentioned in paragraph (a) or paragraph (c)

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of subsection (1) above may, if the person claiming to be indemnified so requests, be made in advance before those costs are incurred or the settlement made, as the case may be:

Provided that any such determination in advance for indemnity in respect of costs to be incurred shall be subject to such limitations, if any, as the committee think proper and to the subsequent determination of the amount of the costs reasonably incurred and shall not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

- (3) An appeal shall lie to a person appointed for the purpose by the Lord Chancellor—
- (a) on the part of the person claiming to be indemnified, from any decision of the magistrates' courts committee under subsection (2) above, other than a decision to postpone until after the conclusion of the proceedings any determination with respect to his own costs or to impose limitations on making a determination in advance for indemnity in respect of such costs;
 - (b) on the part of the local authority, from any determination of the magistrates' courts committee under that subsection, other than a determination in advance for indemnity in respect of costs to be incurred by the person claiming to be indemnified.
- (4) The Lord Chancellor may by statutory instrument make rules prescribing the procedure to be followed in any appeal under this section; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section "justices' clerk" includes a person appointed by a magistrates' courts committee to assist a justices' clerk and any member of the staff of a part-time justices' clerk assisting the clerk in his duties as such; "local funds", in relation to a justice or a justices' clerk, means funds out of which any salary or allowance to which he is entitled (or, if he is entitled to more than one, is entitled in the relevant capacity) is payable; and "local authority" means the authority responsible for the payment of any such salary or allowance.
- (6) Subsection (5) above shall not apply to the inner London area, but in the application of the other provisions of this section to that area—
- (a) for any reference to local funds there shall be substituted a reference to the metropolitan police fund;
 - (b) for any reference to a magistrates' courts committee there shall be substituted a reference to the committee of magistrates set up under section 35 of this Act; and
 - (c) for any reference to a local authority there shall be substituted a reference to the Receiver,
- and "justices' clerk" includes any officer employed by the committee of magistrates.

Textual Amendments

F5 Words repealed by Courts and Legal Services Act 1990 (c.41, SIF 76:1, 82), s. 125(7), **Sch. 20**

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Textual Amendments

- F6** S. 54 repealed by Courts and Legal Services Act 1990 (c.41, SIF 76:1, 82), ss. 108(6)(g), 125(6)(7), Sch. 19 para. 16, **Sch.20**

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Changes to legislation:

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