



# Justices of the Peace Act 1979 (repealed 19.6.1997)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

##### [<sup>F1</sup>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](#)

##### [<sup>F2</sup>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— <sup>F3</sup> .....  
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**F3** Ss. 46, 47, 48, 49, 51, 52 repealed by Courts and Legal Services Act 1990 (c.41, SIF 82), ss. 108(6) (a)–(f), 125(6)(7), Sch. 19 para. 16, **Sch. 20**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. <sup>F4</sup> .....

**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**F4** Ss. 46, 47, 48, 49, 51, 52 repealed by Courts and Legal Services Act 1990 (c.41, SIF 82), ss. 108(6) (a)–(f), 125(6)(7), Sch. 19 para. 16, **Sch. 20**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 . . . <sup>F5</sup>, 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 [<sup>F6</sup>any paying 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.

[<sup>F7</sup>(3A) Where there are two or more paying authorities in relation to any justice or justices' clerk, any question as to the extent to which the funds required to indemnify him are to be provided by each authority shall be determined by agreement between those authorities and the magistrates' courts committee concerned or, in default of such agreement, shall be determined by the Lord Chancellor.]

- (4) The Lord Chancellor may by statutory instrument make rules prescribing the procedure to be followed in any appeal under [<sup>F8</sup>subsection (3) above]; 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.

[<sup>F9</sup>(5) In this section—

“justices' clerk” includes any person appointed by a magistrates' courts committee to assist a justices' clerk,

“local funds”, in relation to a justice or justices' clerk, means funds out of which the expenses of the magistrates' courts committee for the area for which he acted at the material time are payable, and

“paying authority”, in relation to a justice or justices' clerk, means any authority which is a paying authority for the purposes of section 55 of this Act in relation to the magistrates' courts committee for the area for which he acted at the material time.]

[<sup>F10</sup>(6) .....

#### Textual Amendments

- F5** Words repealed by Courts and Legal Services Act 1990 (c.41, SIF 76:1, 82), s. 125(7), **Sch. 20**
- F6** Words in s. 53(3) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. I para. 18(2)**; S.I. 1995/685, **art.7(i)**
- F7** S. 53(3A) inserted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. I para. 18(3)**; S.I. 1995/685, **art.7(i)**
- F8** Words in s. 53(4) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. I para. 18(4)**; S.I. 1995/685, **art.7(i)**
- F9** S. 53(5) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. I para. 18(5)**; S.I. 1995/685, **art.7(i)**

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**F10** S. 53(6) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 pt.II**; S.I. 1995/685, **art.8(k)**

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

**C1** S. 53 amended (*temp.*) (1.4.1995) by S.I. 1995/685, **art. 6(2)(a)**.

**54** <sup>F11</sup> .....

**Textual Amendments**

**F11** 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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