



# Justices of the Peace Act 1997 (repealed)

## 1997 CHAPTER 25

### PART V

#### PROTECTION AND INDEMNIFICATION OF JUSTICES AND JUSTICES' CLERKS

#### 51 Immunity for acts within jurisdiction.

[<sup>F1</sup>(1)] No action shall lie against any justice of the peace or justices' 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.

[<sup>F2</sup>(2) In this section references to a justices' clerk include any person appointed by a magistrates' courts committee to assist a justices' clerk.]

#### Textual Amendments

- F1** S. 51 renumbered as s. 51(1) (1.4.2001) by 1999 c. 22, s. 100 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(b)(i) (subject to transitional provisions in Sch. 2 para. 2)
- F2** S. 51(2) inserted (1.4.2001) by 1999 c. 22, s. 100 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(b)(i) (subject to transitional provisions in Sch. 2 para. 2)

#### 52 Immunity for certain acts beyond jurisdiction.

[<sup>F3</sup>(1)] An action shall lie against any justice of the peace or justices' clerk in respect of any act or omission of his—

- (a) in the purported execution of his duty—
  - (i) as such a justice; or

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- (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 a matter which is not within his jurisdiction, if, but only if, it is proved that he acted in bad faith.

[<sup>F4</sup>(2) In this section references to a justices’ clerk include any person appointed by a magistrates’ courts committee to assist a justices’ clerk.]

#### Textual Amendments

- F3** S. 52 renumbered as s. 52(1) (1.4.2001) by 1999 c. 22, s. 100 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(b)(i) (subject to transitional provisions in Sch. 2 para. 2)
- F4** S. 52(2) inserted (1.4.2001) by 1999 c. 22, s. 100 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(b)(i) (subject to transitional provisions in Sch. 2 para. 2)

### 53 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 lie, 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.

#### [<sup>F5</sup>53A Costs in legal proceedings.

- (1) A court may not order any justice of the peace or justices’ clerk to pay costs in any proceedings in respect of any act or omission of his in the execution (or purported execution) of his duty—
  - (a) as such a justice; or
  - (b) as such a clerk exercising, by virtue of any statutory provision, any of the functions of a single justice.
- (2) Subsection (1) above does not apply in relation to—
  - (a) any proceedings in which a justice or justices’ clerk is being tried for an offence or is appealing against a conviction; or
  - (b) any proceedings in which it is proved that a justice or justices’ clerk acted in bad faith in respect of the matters giving rise to the proceedings.
- (3) Where a court is prevented by subsection (1) above from ordering a justice or justices’ clerk to pay costs in any proceedings, the court may instead order the making by the Lord Chancellor of a payment in respect of the costs of a person in the proceedings.
- (4) The Lord Chancellor may by statutory instrument make regulations specifying—
  - (a) circumstances when a court shall or shall not exercise the power conferred on it by subsection (3) above; and
  - (b) how the amount of any payment ordered under that subsection is to be determined.
- (5) No regulations may be made under subsection (4) above unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

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- (6) In this section references to a justices’ clerk include any person appointed by a magistrates’ courts committee to assist a justices’ clerk.]

#### Textual Amendments

**F5** S. 53A and sidenote inserted (1.4.2001) by 1999 c. 22, s. 98(1) (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(b)(i) (subject to saving in Sch. 1 para. 2 and transitional provisions in Sch. 2 para. 2)

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

**C1** S. 53A(3) restricted (1.4.2001) by S.I. 2001/1296, reg. 3

## 54 Indemnification of justices and justices’ clerks.

- (1) For the purposes of subsection (2) below, the following amounts are “relevant amounts” in relation to a justice of the peace or justices’ clerk—

- (a) any costs which he reasonably incurs—
- (i) in or in connection with proceedings<sup>F6</sup> . . . in respect of anything done or omitted in the exercise (or purported exercise) of his duty as a justice of the peace or justices’ clerk; or
  - (ii) 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; and
- (c) any sums payable by him in connection with a reasonable settlement of any such proceedings or claim,

and relevant amounts relate to criminal matters if the duty mentioned in paragraph (a) (i) above relates to criminal matters.

- (2) Subject to the provisions of this section, a justice of the peace or justices’ clerk—
- (a) shall be indemnified [<sup>F7</sup>by the appropriate authority] in respect of relevant amounts which relate to criminal matters unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith; and
- (b) in respect of other relevant amounts—
- (i) may be indemnified [<sup>F7</sup>by the appropriate authority][<sup>F8</sup>unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith]; and
  - (ii) shall be so indemnified if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.

[<sup>F9</sup>(2A) In subsection (2) above the “appropriate authority” means—

- (a) the Greater London Magistrates’ Courts Authority, where at the material time the justice or justices’ clerk was acting for an area consisting of or falling within Greater London; or
- (b) the paying authority or authorities, where at the material time the justice or justices’ clerk was acting for an area outside Greater London.]

- (3) 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.

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- (4) A determination under subsection (3) above with respect to any such costs or sums as are mentioned in subsection (1)(a) or (c) 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.
- (5) 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.
- (6) 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 (3) or (4) 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 any paying authority, from any determination of the magistrates’ courts committee under subsection (3) above other than a determination in advance for indemnity in respect of costs to be incurred by the person claiming to be indemnified.
- (7) Where [<sup>F10</sup>, in relation to any justice or justices’ clerk acting for an area outside Greater London, there are two or more paying authorities,] 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.
- (8) The Lord Chancellor may by statutory instrument make rules prescribing the procedure to be followed in any appeal under subsection (6) 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.
- (9) In this section—
- “justices’ clerk” includes any person appointed by a magistrates’ courts committee to assist a justices’ clerk;
- <sup>F11</sup> . . . ; and
- “paying authority”
- (a) [<sup>F12</sup>in relation to any justice or justices’ clerk who at the material time acted for an area outside Greater London, means any authority which is a paying authority for the purposes of section 55 below in relation to the magistrates’ courts committee for that area; and
  - (b) in relation to a justice or justices’ clerk who at the material time acted for an area consisting of or falling within Greater London, means the council of any London borough or the Common Council of the City of London.]

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### Textual Amendments

- F6** Words in s. 54(1)(a)(i) repealed (1.4.2001) by 1999 c. 22, ss. 99(a), 106, **Sch. 15 Pt. VI** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(b)(i)(c)(iii)** (subject to transitional provisions in Sch. 2 para. 2)
- F7** Words in s. 54(2) substituted (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 9, **14(1)(2)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F8** Words in s. 54(2)(b)(i) inserted (1.4.2001) by 1999 c. 22, s. 99(b) (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(b)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F9** S. 54(2A) inserted (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 9, **14(1)(3)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F10** Words in s. 54(7) substituted (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 9, **14(1)(4)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F11** Definition of “local funds” in s. 54(9) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(6)** (with Sch. 14 para. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(i)** (subject to transitional provisions in Sch. 2 para. 2)
- F12** Paras. (a) and (b) substituted for words in definition of “paying authority” in s. 54(9) (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 9, **14(1)(5)** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (subject to transitional provisions in Sch. 2 para. 2)

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