



Courts Act 2003

2003 CHAPTER 39

PART 2

JUSTICES OF THE PEACE

The commission of the peace and local justice areas

7 The commission of the peace for England and Wales

There shall be a commission of the peace for England and Wales—

- (a) issued under the Great Seal, and
- (b) addressed generally, and not by name, to all such persons as may from time to time hold office as justices of the peace for England and Wales.

8 Local justice areas

- (1) England and Wales is to be divided into areas to be known as local justice areas.
- (2) The areas are to be those specified by an order made by the Lord Chancellor.
- (3) Each local justice area established by order under subsection (2) is to be known by such name as is specified in the order (but subject to subsection (4)).
- (4) The Lord Chancellor may make orders altering local justice areas.
- (5) “Altering”, in relation to a local justice area, includes (as well as changing its boundaries)—
 - (a) combining it with one or more other local justice areas,
 - (b) dividing it between two or more other local justice areas, and
 - (c) changing its name.
- (6) Before making an order under subsection (4) in relation to a local justice area the Lord Chancellor must consult—
 - (a) the justices of the peace assigned to the local justice area,

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- (b) any courts board whose area includes the local justice area or a part of the local justice area, and
 - (c) unless the alteration consists only of a change of name, any local authorities whose area includes the local justice area or a part of the local justice area.
- (7) “Local authority” means—
- (a) any council of a county, a county borough, a London borough or a council of a district,
 - (b) the Common Council of the City of London, or
 - (c) a police authority established under section 3 of the Police Act 1996 (c. 16) or the Metropolitan Police Authority.

Lay justices

9 Meaning of “lay justice”

In this Act “lay justice” means a justice of the peace who is not a District Judge (Magistrates' Courts).

10 Appointment of lay justices etc.

- (1) Lay justices are to be appointed for England and Wales by the Lord Chancellor by instrument on behalf and in the name of Her Majesty.
- (2) The Lord Chancellor—
 - (a) must assign each lay justice to one or more local justice areas, and
 - (b) may change an assignment so as to assign the lay justice to a different local justice area or to different local justice areas.
- (3) Every lay justice is, by virtue of his office, capable of acting as such in any local justice area (whether or not he is assigned to it); but he may do so only in accordance with arrangements made by or on behalf of the Lord Chancellor.
- (4) Rules may make provision about the training courses to be completed before a person may exercise functions as a lay justice in any proceedings or class of proceedings specified in the rules.
- (5) Subsection (3) is subject to section 12 (the supplemental list).

11 Resignation and removal of lay justices

- (1) A lay justice may resign his office at any time.
- (2) The Lord Chancellor may remove a lay justice from his office by an instrument on behalf and in the name of Her Majesty—
 - (a) on the ground of incapacity or misbehaviour,
 - (b) on the ground of a persistent failure to meet such standards of competence as are prescribed by a direction given by the Lord Chancellor, or
 - (c) if he is satisfied that the lay justice is declining or neglecting to take a proper part in the exercise of his functions as a justice of the peace.

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12 The supplemental list

- (1) A list, to be known as “the supplemental list”, must be kept in the office of the Clerk of the Crown in Chancery.
- (2) A lay justice whose name is entered in the supplemental list is not qualified as a justice of the peace to do any act or to be a member of a committee or other body.
- (3) No act or appointment is invalidated by reason of the disqualification of a lay justice under subsection (2).

13 Entry of names in the supplemental list

- (1) Subject to subsections (2) and (3), the name of a lay justice who has reached 70 must be entered in the supplemental list.
- (2) The name of a lay justice who, when he reaches 70, is chairman of the lay justices assigned to a local justice area need not be entered in the supplemental list until the term for which he is serving as chairman has ended.
- (3) Where—
 - (a) proceedings are, or are expected to be, in progress on the day on which the lay justice reaches 70, and
 - (b) the lay justice is exercising functions in those proceedings as a justice of the peace,the Lord Chancellor may direct that the name of the lay justice need not be entered in the supplemental list until the proceedings have ended.
- (4) The name of a lay justice must be entered in the supplemental list if—
 - (a) he applies for it to be entered, and
 - (b) the application is approved by the Lord Chancellor.
- (5) The Lord Chancellor may direct that the name of a lay justice is to be entered in the supplemental list on the ground of incapacity.

14 Removal of names from the supplemental list

- (1) A person’s name must be removed from the supplemental list if he ceases to be a justice of the peace.
- (2) A person’s name must be removed from the supplemental list if—
 - (a) his name is in the list as a result of section 13(4) or (5), and
 - (b) the Lord Chancellor directs its removal.

15 Lay justices' allowances

- (1) A lay justice is entitled to payments by way of—
 - (a) travelling allowance,
 - (b) subsistence allowance, and
 - (c) financial loss allowance.
- (2) Allowances under this section are to be paid by the Lord Chancellor at rates determined by him.

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- (3) A lay justice's travelling allowance is an allowance in respect of expenditure—
 - (a) which is incurred by him on travelling, and
 - (b) which is necessarily incurred for the purpose of enabling him to perform his duties.
- (4) A lay justice's subsistence allowance is an allowance in respect of expenditure—
 - (a) which is incurred by him on subsistence, and
 - (b) which is necessarily incurred for the purpose of enabling him to perform his duties.
- (5) A lay justice's financial loss allowance is an allowance in respect of—
 - (a) any other expenditure incurred by reason of the performance of his duties, and
 - (b) any loss of earnings or social security benefits suffered by reason of the performance of his duties.
- (6) A lay justice is not entitled to a payment under this section in respect of the performance of his duties if—
 - (a) a payment of a similar kind in respect of those duties may be made to him apart from this section, or
 - (b) entitlement to the payment is excluded by regulations made by the Lord Chancellor.
- (7) For the purposes of this section the performance of a lay justice's duties includes taking a training course provided by or on behalf of the Lord Chancellor.
- (8) The Lord Chancellor may by regulations make provision about the way in which this section is to be administered and may in particular make provision—
 - (a) prescribing sums (including tax credits) that are to be treated as social security benefits for the purposes of financial loss allowances,
 - (b) prescribing the particulars to be provided for claiming payment of allowances, and
 - (c) for avoiding duplication between payments under this section and under other arrangements where expenditure is incurred for more than one purpose.

16 Records of lay justices

- (1) The Lord Chancellor—
 - (a) must appoint a person to be keeper of the rolls for each local justice area, and
 - (b) may appoint the same person to be keeper of the rolls for more than one local justice area.
- (2) The keeper of the rolls for a local justice area must be notified, in such manner as the Lord Chancellor may direct, of—
 - (a) any assignment of a lay justice to the area,
 - (b) any change in an assignment of a lay justice as a result of which he ceases to be assigned to the area, and
 - (c) the fact that a lay justice assigned to the area has ceased to be a justice of the peace or that his name has been entered in or removed from the supplemental list.
- (3) The keeper of the rolls for a local justice area must ensure that an accurate record is maintained of all lay justices for the time being assigned to the area.

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Chairman and deputy chairmen and the bench

17 Chairman and deputy chairmen: selection

- (1) For each local justice area there is to be—
 - (a) a chairman of the lay justices assigned to the area, and
 - (b) one or more deputy chairmen of those lay justices, chosen by them from among their number.
- (2) Rules may make provision—
 - (a) subject to subsection (3), as to the term of office of the chairman and deputy chairmen, and
 - (b) as to the number of deputy chairmen to be elected for any area.
- (3) The Lord Chancellor, or a person acting on his behalf, may authorise a lay justice to continue to hold office as chairman or deputy chairman for the purposes of specified proceedings which are, or are expected to be, in progress on the day on which the lay justice's office would otherwise end.
- (4) Any contested election for choosing the chairman or a deputy chairman is to be held by secret ballot.
- (5) Rules may make provision for the purposes of this section and may in particular make provision—
 - (a) about the procedure for nominating candidates for election as a chairman or a deputy chairman;
 - (b) about the procedure at such an election.

18 Rights to preside and size of bench

- (1) If the chairman for a local justice area is present at a sitting or other meeting of lay justices assigned to or acting in the area, he must preside.
- (2) If, in the absence of the chairman, one or more of the deputy chairmen for a local justice area is present at a sitting or other meeting of lay justices assigned to or acting in that area he (or the most senior of them) must preside.
- (3) Neither subsection (1) nor subsection (2) applies if, in accordance with rules, the chairman or (as the case may be) the deputy chairman asks another of the lay justices to preside.
- (4) Subsections (1) and (2) do not confer on the chairman or a deputy chairman a right to preside in court if, under rules, he is ineligible to do so.
- (5) Subsections (1) and (2) do not confer on the chairman or a deputy chairman a right to preside—
 - (a) in a youth court or family proceedings court,
 - (b) at meetings of a committee or other body of justices of the peace which has its own chairman, or
 - (c) at sittings when a District Judge (Magistrates' Courts) is engaged as such in administering justice.
- (6) Rules may make provision for the purposes of subsections (3) and (4) and may in particular make provision—

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- (a) as to training courses to be completed by lay justices before they may preside in court,
 - (b) as to—
 - (i) the approval of lay justices, in accordance with the rules, before they may preside in court,
 - (ii) the lay justices who may be so approved, and
 - (iii) the courts to which the approval relates, and
 - (c) as to circumstances in which a lay justice may preside in court even though requirements imposed under paragraph (a) or (b) are not met in relation to him.
- (7) Rules may also make provision—
- (a) specifying the maximum number of lay justices who may sit to deal with a case as a magistrates' court, and
 - (b) as to the arrangements to be made for securing the presence on the bench of enough, but not more than enough, lay justices.

Supplementary provisions about the bench

19 Training, development and appraisal of lay justices

- (1) Rules may (in addition to making provision under sections 10(4) and 18(6)) make provision for, or in connection with, the training, development and appraisal of lay justices.
- (2) Such rules may make provision for committees, constituted in accordance with the rules, to have such functions as may be specified in the rules, including, in particular—
 - (a) providing advice and support to lay justices in connection with their functions as lay justices;
 - (b) identifying the training needs of lay justices;
 - (c) appraising lay justices and reporting on the results of appraisals;
 - (d) giving or withholding approval for the purposes of section 18;
 - (e) advising the Lord Chancellor in relation to authorisations of lay justices as members of family proceedings courts or youth courts;
 - (f) granting or revoking such authorisations on behalf of the Lord Chancellor.
- (3) The Lord Chancellor must ensure that appropriate training and training materials are provided for lay justices with a view to enabling them to comply with requirements as to training imposed by rules under section 10 or 18 or this section.

20 Rules

- (1) In sections 10, 17, 18 and 19 “rules” means rules made by the Lord Chancellor.
- (2) Before making any rules for the purposes of section 10, 17, 18 or 19 the Lord Chancellor must consult—
 - (a) the Criminal Procedure Rule Committee,
 - (b) the Family Procedure Rule Committee, and
 - (c) the Magistrates' Courts Rule Committee.

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21 Duty to consult lay justices on matters affecting them etc.

The Lord Chancellor must take all reasonable and practicable steps—

- (a) for ensuring that lay justices acting in a local justice area are kept informed of matters affecting them in the performance of their duties, and
- (b) for ascertaining their views on such matters.

District Judges (Magistrates' Courts)

22 Appointment etc.

- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint a person who has a 7 year general qualification to be a District Judge (Magistrates' Courts).
- (2) A District Judge (Magistrates' Courts) must, before acting as such, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Act 1868 (c. 72) and the Promissory Oaths Act 1871 (c. 48).
- (3) The Lord Chancellor may pay to a District Judge (Magistrates' Courts) such allowances as he may determine.
- (4) Any such allowances are in addition to the salary charged on and paid out of the Consolidated Fund under section 9 of the Administration of Justice Act 1973 (c. 15).
- (5) The Lord Chancellor may remove a District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.

23 Senior District Judge (Chief Magistrate)

The Lord Chancellor—

- (a) may designate one of the District Judges (Magistrates' Courts) to be Senior District Judge (Chief Magistrate), and
- (b) if he does so, may designate another of them to be the deputy of the Senior District Judge (Chief Magistrate).

24 Deputy District Judges (Magistrates' Courts)

- (1) The Lord Chancellor may appoint a person who has a 7 year general qualification to be a Deputy District Judge (Magistrates' Courts) for such period as the Lord Chancellor considers appropriate (but subject to subsection (4)).
- (2) A Deputy District Judge (Magistrates' Courts) must, before acting as such, take the oath of allegiance and judicial oath in accordance with the Promissory Oaths Act 1868 and the Promissory Oaths Act 1871.
- (3) The Lord Chancellor may pay to a Deputy District Judge (Magistrates' Courts) such remuneration and allowances as he may determine.
- (4) The Lord Chancellor may remove a Deputy District Judge (Magistrates' Courts) from office on the ground of incapacity or misbehaviour.
- (5) During the period of his appointment, a Deputy District Judge (Magistrates' Courts)—
 - (a) is to act as a District Judge (Magistrates' Courts), and

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- (b) is to be treated for all purposes (apart from appointment, tenure, remuneration, allowances and pensions) as if he were a District Judge (Magistrates' Courts).

25 District Judges (Magistrates' Courts) as justices of the peace

- (1) A District Judge (Magistrates' Courts) is by virtue of his office a justice of the peace for England and Wales.
- (2) It is the duty of a District Judge (Magistrates' Courts) to act as a justice of the peace in any local justice area in accordance with arrangements made by or on behalf of the Lord Chancellor.

26 District Judges (Magistrates' Courts) able to act alone

- (1) Nothing in the 1980 Act—
 - (a) requiring a magistrates' court to be composed of two or more justices, or
 - (b) limiting the powers of a magistrates' court when composed of a single justice, applies to a District Judge (Magistrates' Courts).
- (2) A District Judge (Magistrates' Courts) may—
 - (a) do any act, and
 - (b) exercise alone any jurisdiction,
 which can be done or exercised by two justices, apart from granting or transferring a licence.
- (3) Any enactment making provision ancillary to the jurisdiction exercisable by two justices of the peace also applies to the jurisdiction of a District Judge (Magistrates' Courts), unless the provision relates to granting or transferring a licence.
- (4) This section does not apply to the hearing or determination of family proceedings (as defined by section 65 of the 1980 Act).
- (5) “The 1980 Act” means the Magistrates' Courts Act 1980 (c. 43).

Justices' clerks and assistant clerks

27 Justices' clerks and assistant clerks

- (1) A justices' clerk is a person who is—
 - (a) appointed by the Lord Chancellor under section 2(1), and
 - (b) designated by the Lord Chancellor as a justices' clerk.
- (2) A person may be designated as a justices' clerk only if he—
 - (a) has a 5 year magistrates' court qualification,
 - (b) is a barrister or solicitor who has served for not less than 5 years as an assistant to a justices' clerk, or
 - (c) has previously been a justices' clerk.
- (3) The Lord Chancellor—
 - (a) must assign each justices' clerk to one or more local justice areas, and
 - (b) subject to subsection (4), may change an assignment so as to assign the justices' clerk to a different local justice area or to different local justice areas.

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- (4) Before changing an assignment of a justices' clerk so that he is no longer assigned to a local justice area, the Lord Chancellor must consult—
 - (a) the chairman of the lay justices assigned to that area, or
 - (b) if it is not possible or not practicable to consult the chairman, the deputy chairman or such of the lay justices assigned to or acting in the area as appear to the Lord Chancellor appropriate.
- (5) An assistant to a justices' clerk is a person who is—
 - (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
 - (b) designated by the Lord Chancellor as an assistant to a justices' clerk.
- (6) The Lord Chancellor may by regulations provide that, subject to such exceptions as may be prescribed by the regulations, a person may be designated as an assistant to a justices' clerk only if he—
 - (a) has a 5 year magistrates' court qualification, or
 - (b) has such qualifications as may be prescribed by, or approved by the Lord Chancellor in accordance with, the regulations.
- (7) In this Part “assistant clerk” is short for “assistant to a justices' clerk”.

28 Functions

- (1) Rules may make provision enabling things authorised to be done by, to or before a single justice of the peace to be done instead by, to or before a justices' clerk.
- (2) Rules may also make provision enabling things authorised to be done by, to or before a justices' clerk (whether by virtue of subsection (1) or otherwise) to be done instead by, to or before an assistant clerk.
- (3) An enactment or rule of law which—
 - (a) regulates the exercise of any jurisdiction or powers of justices of the peace, or
 - (b) relates to things done in the exercise or purported exercise of any such jurisdiction or powers,applies in relation to the exercise or purported exercise of any such jurisdiction or powers by a justices' clerk by virtue of subsection (1) as if he were a justice of the peace.
- (4) The functions of a justices' clerk include giving advice to any or all of the justices of the peace to whom he is clerk about matters of law (including procedure and practice) on questions arising in connection with the discharge of their functions, including questions arising when the clerk is not personally attending on them.
- (5) The powers of a justices' clerk include, at any time when he thinks he should do so, bringing to the attention of any or all of the justices of the peace to whom he is clerk any point of law (including procedure and practice) that is or may be involved in any question so arising.
- (6) For the purposes of subsections (4) and (5) the functions of justices of the peace do not include functions as a judge of the Crown Court.
- (7) Subsections (4) and (5) do not limit—
 - (a) the powers and duties of a justices' clerk, or

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- (b) the matters on which justices of the peace may obtain assistance from their clerk.
- (8) In this section “rules” means rules made by the Lord Chancellor.
- (9) Before making any rules for the purposes of this section the Lord Chancellor must consult—
 - (a) the Criminal Procedure Rule Committee,
 - (b) the Family Procedure Rule Committee, and
 - (c) the Magistrates' Courts Rule Committee.

29 Independence

- (1) A justices' clerk exercising—
 - (a) a function exercisable by one or more justices of the peace,
 - (b) a function specified in section 28(4) or (5) (advice on matters of law, including procedure and practice), or
 - (c) a function as a member of the Criminal Procedure Rule Committee or the Family Procedure Rule Committee,
 is not subject to the direction of the Lord Chancellor or any other person.
- (2) An assistant clerk who is exercising any such function is not subject to the direction of any person other than a justices' clerk.

Places, dates and times of sittings

30 Places, dates and times of sittings

- (1) The Lord Chancellor may give directions as to the places in England and Wales at which magistrates' courts may sit.
- (2) In exercising his powers under subsection (1), the Lord Chancellor shall have regard to the need to ensure that court-houses are accessible to persons resident in each local justice area.
- (3) The Lord Chancellor may, with the concurrence of the Lord Chief Justice, give directions as to the distribution and transfer of the general business of magistrates' courts between the places specified in directions under subsection (1).
- (4) Directions under subsection (3) may, in particular, contain provision that, where a person is charged with an offence and is being required to appear before a magistrates' court, the place where he is required to appear is one of the places described in subsection (5).
- (5) The places are—
 - (a) a place in the local justice area in which the offence is alleged to have been committed;
 - (b) a place in the local justice area in which the person charged with the offence resides;
 - (c) a place in the local justice area in which the witnesses, or the majority of the witnesses, reside;
 - (d) a place where other cases raising similar issues are being dealt with.

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- (6) “The general business of magistrates' courts” does not include family proceedings (as defined in section 65 of the 1980 Act).
- (7) The Lord Chancellor may give directions as to the days on which and times at which magistrates' courts may sit.
- (8) Subject to any directions under subsection (7), the business of magistrates' courts may be conducted on any day and at any time.

Protection and indemnification of justices and justices' clerks

31 Immunity for acts within jurisdiction

- (1) No action lies against a justice of the peace in respect of what he does or omits to do—
 - (a) in the execution of his duty as a justice of the peace, and
 - (b) in relation to a matter within his jurisdiction.
- (2) No action lies against a justices' clerk or an assistant clerk in respect of what he does or omits to do—
 - (a) in the execution of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace, and
 - (b) in relation to a matter within his jurisdiction.

32 Immunity for certain acts beyond jurisdiction

- (1) An action lies against a justice of the peace in respect of what he does or omits to do—
 - (a) in the purported execution of his duty as a justice of the peace, but
 - (b) in relation to a matter not within his jurisdiction,if, but only if, it is proved that he acted in bad faith.
- (2) An action lies against a justices' clerk or an assistant clerk in respect of what he does or omits to do—
 - (a) in the purported execution of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace, but
 - (b) in relation to a matter not within his jurisdiction,if, but only if, it is proved that he acted in bad faith.

33 Striking out proceedings where action prohibited

- (1) If an action is brought in circumstances in which section 31 or 32 provides that no action lies, a judge of the court in which the action is brought may, on the application of the defendant, strike out the proceedings in the action.
- (2) If a judge strikes out proceedings under subsection (1), he may if he thinks fit order the person bringing the action to pay costs.

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34 Costs in legal proceedings

- (1) A court may not order a justice of the peace to pay costs in any proceedings in respect of what he does or omits to do in the execution (or purported execution) of his duty as a justice of the peace.
- (2) A court may not order—
 - (a) a justices' clerk, or
 - (b) an assistant clerk,to pay costs in any proceedings in respect of what he does or omits to do in the execution (or purported execution) of his duty as a justices' clerk or assistant clerk exercising, by virtue of an enactment, a function of a single justice of the peace.
- (3) But subsections (1) and (2) do not apply in relation to any proceedings in which a justice of the peace, justices' clerk or assistant clerk—
 - (a) is being tried for an offence or is appealing against a conviction, or
 - (b) is proved to have acted in bad faith in respect of the matters giving rise to the proceedings.
- (4) A court which is prevented by subsection (1) or (2) from ordering a justice of the peace, justices' clerk or assistant clerk to pay costs in any proceedings may instead order the Lord Chancellor to make a payment in respect of the costs of a person in the proceedings.
- (5) The Lord Chancellor may make regulations specifying—
 - (a) circumstances in which a court must or must not exercise the power conferred on it by subsection (4), and
 - (b) how the amount of any payment ordered under subsection (4) is to be determined.

35 Indemnity

- (1) "Indemnifiable amounts", in relation to a justice of the peace, justices' clerk or assistant clerk, means—
 - (a) costs which he reasonably incurs in or in connection with proceedings in respect of anything done or omitted to be done in the exercise (or purported exercise) of his duty as a justice of the peace, justices' clerk or assistant clerk,
 - (b) costs which he reasonably incurs in taking steps to dispute a claim which might be made in such proceedings,
 - (c) damages awarded against him or costs ordered to be paid by him in such proceedings, or
 - (d) sums payable by him in connection with a reasonable settlement of such proceedings or such a claim.
- (2) Indemnifiable amounts relate to criminal matters if the duty mentioned in subsection (1)(a) relates to criminal matters.
- (3) The Lord Chancellor must indemnify a justice of the peace, justices' clerk or assistant clerk in respect of—
 - (a) indemnifiable 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

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- (b) other indemnifiable amounts if, in respect of the matters giving rise to the proceedings or claim, he acted reasonably and in good faith.
- (4) The Lord Chancellor may indemnify a justice of the peace, justices' clerk or assistant clerk in respect of other indemnifiable amounts unless it is proved, in respect of the matters giving rise to the proceedings or claim, that he acted in bad faith.
- (5) Any question whether, or to what extent, a person is to be indemnified under this section is to be determined by the Lord Chancellor.
- (6) The Lord Chancellor may, if the person claiming to be indemnified so requests, make a determination for the purposes of this section with respect to—
 - (a) costs such as are mentioned in subsection (1)(a) or (b), or
 - (b) sums such as are mentioned in subsection (1)(d),before the costs are incurred or the settlement in connection with which the sums are payable is made.
- (7) But a determination under subsection (6) before costs are incurred—
 - (a) is subject to such limitations (if any) as the Lord Chancellor thinks proper and to the subsequent determination of the costs reasonably incurred, and
 - (b) does not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

Fines officers and designated officers

36 Fines officers

Any reference in an enactment to a fines officer is to a person who is—

- (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
- (b) designated as a fines officer by the Lord Chancellor.

37 Designated officers and magistrates' courts

- (1) Any reference in an enactment to the designated officer, in relation to a magistrates' court, justice of the peace or local justice area, is to a person who is—
 - (a) appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and
 - (b) designated by the Lord Chancellor in relation to that court, justice of the peace or area.
- (2) In this section “magistrates' court” includes—
 - (a) a committee of justices, and
 - (b) when exercising a function exercisable by one or more justices of the peace—
 - (i) a justices' clerk, and
 - (ii) an assistant clerk.

Status: Point in time view as at 01/04/2006.

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Application of receipts of magistrates' courts etc.

38 Application of receipts of designated officers

- (1) The following are to be paid to the Lord Chancellor—
 - (a) fines imposed by a magistrates' court,
 - (b) sums which—
 - (i) become payable by virtue of an order of a magistrates' court, and
 - (ii) are by an enactment made applicable as fines (or any description of fines) imposed by a magistrates' court, and
 - (c) all other sums received by—
 - (i) a designated officer for a magistrates' court, or
 - (ii) a designated officer for a local justice area,
 in his capacity as such.
- (2) “Fine” includes—
 - (a) any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable under a conviction, and
 - (b) any pecuniary forfeiture on conviction by, or under any order of, a magistrates' court so far as the forfeiture is converted into or consists of money.
- (3) For the purposes of this section anything done by the Crown Court on appeal from a magistrates' court is to be treated as done by the magistrates' court.
- (4) Any sums received by the Lord Chancellor under this section are to be paid by him into the Consolidated Fund.

39 Limits to requirements about application of receipts

- (1) Section 38(1) is subject to section 139 of the 1980 Act (sums paid on summary conviction applied for payment of compensation and costs).
- (2) Paragraphs (a) and (b) of section 38(1) do not apply to sums which, by or under any enactment, are directed to be paid to—
 - (a) the Commissioners of Customs and Excise, or
 - (b) officers of, or persons appointed by, the Commissioners.
- (3) Those paragraphs also do not apply to sums which, by or under any enactment, are directed—
 - (a) to be paid to or for the benefit of—
 - (i) the party aggrieved or injured or a person described in similar terms, or
 - (ii) the family or relatives of a person described in any such terms or of a person dying in consequence of an act or event which constituted or was the occasion of an offence,
 - (b) to be applied in making good any default or repairing any damage or reimbursing any expenses (other than those of the prosecution), or
 - (c) to be paid to any person, if the enactment refers in terms to awarding or reimbursing a loss or to damages, compensation or satisfaction for loss, damage, injury or wrong.
- (4) Paragraph (c) of section 38(1) does not apply to—

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- (a) sums to which a person other than the Lord Chancellor is by law entitled and which are paid to that person, or
 - (b) sums received by a designated officer on account of his salary or expenses as such.
- (5) Any sum paid to the Lord Chancellor by virtue of paragraph (c) of section 38(1) is to be paid to him subject to being repaid to any person establishing his title to it.

40 Regulations about payments, accounting and banking by designated officers

- (1) The Lord Chancellor may, with the concurrence of the Treasury, make regulations—
- (a) as to the times at which, and the manner in which, a designated officer is to pay sums payable by him in his capacity as such to the Lord Chancellor or any other person,
 - (b) requiring the keeping of accounts by designated officers in respect of sums received by them,
 - (c) as to the production, inspection and audit of accounts required to be kept, and
 - (d) requiring designated officers to use—
 - (i) specified banking arrangements or facilities, or
 - (ii) banking arrangements or facilities of a specified description,in relation to sums received by them.
- (2) Regulations under this section may make different provision in relation to different descriptions of designated officer.

Miscellaneous

41 Disqualification of lay justices who are members of local authorities

- (1) A lay justice who is a member of a local authority may not act as a member of the Crown Court or a magistrates' court in proceedings brought by or against, or by way of an appeal from a decision of—
- (a) that local authority,
 - (b) a committee or officer of that local authority, or
 - (c) if that local authority is operating executive arrangements (within the meaning of Part 2 of the Local Government Act 2000 (c. 22))—
 - (i) the executive of that local authority (within the meaning of that Part), or
 - (ii) any person acting on behalf of that executive.
- (2) A lay justice who is a member of the Common Council of the City of London may not act as a member of the Crown Court or a magistrates' court in proceedings brought by or against, or by way of an appeal from a decision of—
- (a) the Corporation of the City,
 - (b) the Common Council, or
 - (c) a committee or officer of the Corporation or the Common Council.
- (3) A joint committee, joint board, joint authority or other combined body—
- (a) of which a local authority, the Corporation or the Common Council is a member, or

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- (b) on which the local authority, the Corporation or the Council is represented, is to be regarded for the purposes of this section as a committee of the local authority, Corporation or Common Council.
- (4) Any reference in this section to an officer of—
- (a) a local authority,
 - (b) the Corporation, or
 - (c) the Common Council,
- is to a person employed or appointed by, or by a committee of, the local authority, Corporation or Common Council in the capacity in which he is employed or appointed to act.
- (5) No act is invalidated merely because of the disqualification under this section of the person by whom it is done.
- (6) “Local authority” means—
- (a) a local authority within the meaning of the Local Government Act 1972 (c. 70),
 - (b) a local authority constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39),
 - (c) a police authority established under section 3 of the Police Act 1996 (c. 16), the Metropolitan Police Authority [^{F1}or the Serious Organised Crime Agency]
 - (d) the London Fire and Emergency Planning Authority,
 - (e) a joint authority established under Part 4 of the Local Government Act 1985 (c. 51),
 - (f) a National Park Authority,
 - (g) the Broads Authority, or
 - (h) a housing action trust established under Part 3 of the Housing Act 1988 (c. 50).

Textual Amendments

F1 Words in [s. 41\(6\)\(c\)](#) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005, (c. 15), s. 59, {Sch. 4 para. 192}; [S.I. 2006/378](#), [art. 4](#), [Sch. para. 10](#)

42 Effect of Act of Settlement on existing justices of the peace

Nothing in section 3 of the Act of Settlement (1700 c. 2) (certain persons born outside the United Kingdom) invalidates—

- (a) any appointment, whether made before or after the passing of this Act, of a justice of the peace, or
- (b) any act done by virtue of such an appointment.

Status:

Point in time view as at 01/04/2006.

Changes to legislation:

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