



# Courts Act 2003

## 2003 CHAPTER 39

### PART 2

#### JUSTICES OF THE PEACE

##### *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,

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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.

### 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 [<sup>F1</sup>or a function of the family court or of a judge of that court].
- (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 [<sup>F2</sup>, after consulting the Lord Chief Justice,] 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.
- [<sup>F3</sup>(6) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

#### Textual Amendments

- F1** Words in s. 34(2) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 89](#); [S.I. 2014/954, art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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- F2** Words in s. 34(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15, Sch. 4 para. 329\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(y)
- F3** S. 34(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 15, Sch. 4 para. 329\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11(y)

## 35 Indemnity

- (1) “Indemnifiable amounts”, in relation to a justice of the peace, justices' clerk or assistant clerk, means—
- 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,
  - costs which he reasonably incurs in taking steps to dispute a claim which might be made in such proceedings,
  - damages awarded against him or costs ordered to be paid by him in such proceedings, or
  - 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—
- 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
  - 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—
- costs such as are mentioned in subsection (1)(a) or (b), or
  - 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—
- is subject to such limitations (if any) as the Lord Chancellor thinks proper and to the subsequent determination of the costs reasonably incurred, and
  - does not affect any other determination which may fall to be made in connection with the proceedings or claim in question.

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