



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART VI

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Miscellaneous*

#### **108 Liability of magistrates for damages and costs**

- (1) The Justices of the Peace Act 1979 shall be amended as follows.
- (2) For section 44 (acts done within jurisdiction) there shall be substituted the following section—

##### **“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.”

- (3) For section 45 (acts beyond jurisdiction) there shall be substituted the following section—

##### **“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

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*Status: This is the original version (as it was originally enacted).*

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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.”
- (4) In section 15 (acting stipendiary magistrate) after subsection (2) there shall be inserted the following subsection—
  - “(2A) Sections 44, 45 and 53 of this Act shall apply to a person acting as a stipendiary magistrate under subsection (1) as they apply to a stipendiary magistrate.”
- (5) In section 34 (acting metropolitan stipendiary magistrate) after subsection (2) there shall be inserted the following subsection—
  - “(2A) Sections 44, 45 and 53 of this Act shall apply to a person acting as a metropolitan stipendiary magistrate under subsection (1) as they apply to a metropolitan stipendiary magistrate.”
- (6) The following sections shall cease to have effect—
  - (a) 46 (warrant granted on conviction or order made by another justice);
  - (b) 47 (exercise of discretionary powers);
  - (c) 48 (compliance with, or confirmation on appeal to, superior court);
  - (d) 49 (distress warrant for rates);
  - (e) 51 (no action in county court if defendant justice objects);
  - (f) 52 (limitation of damages against justice); and
  - (g) 54 (provisions as to prerogative proceedings and membership of Crown Court).