



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

Status: This is the original version (as it was originally enacted).

- (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).