STATUTORY INSTRUMENTS

# 1971 No. 1333

# DISTRESS

## The Distress for Rent (Amendment) Rules 1971

| | |
|---|---|
| *Made* - - - - | *6th August* 1971 |
| *Coming into Operation* | *1st September* 1971 |

The Lord Chancellor, in the exercise of the powers conferred on him by section 8 of the Law of Distress Amendment Act 1888(a), hereby makes the following Rules:—

**1.**—(1) These Rules may be cited as the Distress for Rent (Amendment) Rules 1971 and shall come into operation on 1st September 1971.

(2) Rule 2 of these Rules shall not apply in respect of a distress levied before the coming into operation of these Rules.

(3) The Interpretation Act 1889(b) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

**2.** The Distress for Rent Rules 1953(c) shall be amended by deleting Appendix I and Form 5 (Back) in Appendix II and substituting Appendix 1 and Form 5 (Back) set out in the Schedule to these Rules.

Dated 6th August 1971.

*Hailsham of St. Marylebone,* C.

### SCHEDULE

### APPENDIX 1

TABLE OF FEES CHARGES AND EXPENSES

| | |
|---|---|
| 1. For levying distress— | |
| (i) where the sum demanded and due does not exceed £20 ... | 75p |
| (ii) where the sum demanded and due exceeds £20 ... ... | 5% on the first £100, 2½% on the next £400, 1½% on any additional sum. |

(a) 1888 c. 21.
(b) 1889 c. 63.
(c) S.I. 1953/1702 (1953 I, p. 574).

2. For taking possession—

| | |
|---|---|
| (i) where a man is left in physical possession ... ... ... | £1 per day |
| (ii) where walking possession is taken ... ... ... ... | 25p per day |

*Notes:* The charge for walking possession is payable only if a walking possession agreement in Form 6 has been signed by the tenant.

A man left in possession must provide his own board in every case.

The possession fee is payable in respect of the day on which the distress is levied, but a fee for physical possession must not be charged where a walking possession agreement is signed at the time when the distress is levied.

3. For appraisement, where the tenant or owner of the goods by writing requires such appraisement to be made, 5p on every £2 of the value as appraised, whether by one broker or more, with a minimum fee of £1 for each broker; the costs of the appraisement are to be borne by the tenant or owner requiring it.

4. For removal, the reasonable costs and charges attending the removal; the costs and charges are subject to taxation under Rule 20.

5. For sale—

(i) where the sale is held on the auctioneer's premises, for commission to the auctioneer, an inclusive charge to include all out-of-pocket expenses except costs of removal:—

| | |
|---|---|
| on the first £100 ... ... ... ... ... | £15·00 per cent. |
| on the next £900 ... ... ... ... ... | £12·50 per cent. |
| above £1,000 ... ... ... ... ... | £10·00 per cent. |

(ii) where the sale is held on the debtor's premises, for commission to the auctioneer, in addition to out-of-pocket expenses actually and reasonably incurred, 7½ per cent, on the sum realised.

6. Reasonable fees, charges and expenses, where distress is withdrawn or where no sale takes place, and for negotiations between landlord and tenant respecting the distress, subject to taxation under Rule 20.

7. For the purpose of calculating any percentage charges a fraction of £1 will be reckoned as £1 but any fraction of a penny in the total amount of the fee so calculated shall be disregarded.

## APPENDIX 2

### FORMS

### FORM 5 (*Back*)

### Scale of Fees

*A bailiff authorised to levy a distress for rent is entitled to the following fees, charges and expenses:*

1. For levying distress—

| | |
|---|---|
| (i) where the sum demanded and due does not exceed £20 ... | 75p |
| (ii) where the sum demanded and due exceeds £20 ... ... | 5% on the first £100, 2½% on the next £400, 1½% on any additional sum. |

2. For taking possession of the goods—

(i) where a man is left in physical possession ... ... ... £1 per day

(ii) where walking possession is taken ... ... ... ... 25p per day

*Note:* The charge for walking possession is payable only if a walking possession agreement has been signed by the tenant.

A man left in possession must provide his own board in every case.

The possession fee is payable in respect of the day on which the distress is levied, but a fee for physical possession must not be charged where a walking possession agreement is signed at the time when the distress is levied.

3. In addition the following fees, charges and expenses may become payable by you if the goods are removed from the premises or sold:—

(*a*) for appraisement, where the tenant or owner of the goods by writing requires such appraisement to be made, 5p on every £2 of the value as appraised, whether by one broker or more, with a minimum fee of £1 for each broker;

(*b*) for removal, the reasonable costs and charges attending the removal;

(*c*) for sale:—

(i) where the sale is held on the auctioneer's premises, for commission to the auctioneer, an inclusive charge to include all out-of-pocket expenses except costs of removal:—

| | | |
|---|---|---|
| on the first £100 ... ... ... ... ... | £15·00 | per cent. |
| on the next £900 ... ... ... ... ... | £12·50 | per cent. |
| above £1,000 ... ... ... ... ... | £10·00 | per cent. |

(ii) where the sale is held on the debtor's premises, for commission to the auctioneer, in addition to out-of-pocket expenses actually and reasonably incurred, 7½ per cent. on the sum realised:

(*d*) reasonable fees, charges and expenses, where distress is withdrawn or where no sale takes place, and for negotiations between landlord and tenant respecting the distress.

*Note:* For the purpose of calculating any percentage charges a fraction of £1 will be reckoned as £1 but any fraction of a penny in the total amount of the fee so calculated shall be disregarded.

---

## EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the fees, charges and expenses recoverable in respect of the levying of distress for rent under the Distress for Rent Rules 1953. Revised fees are prescribed and a single scale replaces the two separate scales for amounts not exceeding and exceeding £20.