STATUTORY INSTRUMENTS

1979 No. 711

DISTRESS

The Distress for Rent (Amendment) Rules 1979

Made - - - -	11*th June* 1979
Coming into Operation	16*th July* 1979

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 1979 and shall come into operation on 16th July 1979.

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

2. The following amendments shall be made to the Distress for Rent Rules 1953**(b)**:—

(1) In Rule 9, for the words "not less than £25 per annum" there shall be substituted the words "£250 per annum or more".

(2) In Rule 10(2), for the figure "£20" there shall be substituted the figure "£300", and for the figure "£5" there shall be substituted the figure "£50".

(3) For Appendix I and Form 5 (back) in Appendix II there shall be substituted Appendix I and Form 5 (back) in Appendix II as set out in the Schedule to these Rules.

Hailsham of St. Marylebone, C.

Dated 11th June 1979.

(a) 1888 c. 21.
(b) S.I. 1953/1702; the relevant amending instruments are S.I. 1971/1333, 1971/2133 and 1973/474.

SCHEDULE

APPENDIX I (TABLE OF FEES, CHARGES AND EXPENSES)

1. For levying distress—

(i) where the sum demanded and due does not exceed £33	£2.50
(ii) where the sum demanded and due exceeds £33	7½ per cent. on the first £100, 2½ per cent. on the next £400, 1½ per cent. on the next £1,000, 1 per cent. on the next £2,500, ½ per cent. on the next £6,000, and ¼ per cent. on any additional sum.

2. For taking possession—

(i) where a man is left in physical possession	£2.50 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 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, 5 per cent. on the first £200, 1½ per cent. on the next £800, ½ per cent. on the next £9,000, ¼ per cent. thereafter of the value appraised, whether by one broker or more, with a minimum fee of £2 for each broker.

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 £1,000 realised	£15.00 per cent.
on any further sum realised	£12.50 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 is to be reckoned as £1 but any fraction of a penny in the total amount of the fee so calculated is to be disregarded.

8. In addition to any amount authorised by this Table in respect of the supply of goods or services on which value added tax is chargeable there may be added a sum equivalent to value added tax at the appropriate rate on that amount.

APPENDIX II (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 £33	£2.50
(ii) where the sum demanded and due exceeds £33	7½ per cent. on the first £100, 2½ per cent. on the next £400, 1½ per cent. on the next £1,000, 1 per cent. on the next £2,500, ½ per cent. on the next £6,000, and ¼ per cent. on any additional sum.

2. For taking possession of the goods—

(i) where a man is left in physical possession	£2.50 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, 5 per cent. on the first £200, 1½ per cent. on the next £800, ½ per cent. on the next £9,000, ¼ per cent. thereafter of the value as appraised, whether by one broker or more, with a minimum fee of £2 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 £1,000 realised	£15.00 per cent.
on any further sum realised	£12.50 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 is to be reckoned as £1 but any fraction of a penny in the total amount of the fee so calculated is to be disregarded.

4. In addition to any amount authorised by this Scale in respect of the supply of goods or services on which value added tax is chargeable there may be added a sum equivalent to value added tax at the appropriate rate on that amount.

EXPLANATORY NOTE

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

These Rules amend the provisions of the Distress for Rent Rules 1953 as to the requirement of security for a certificate to act as a bailiff, and prescribe revised fees, charges and expenses recoverable in respect of the levying of distress for rent under those Rules.

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