



Distress (Costs) Act 1817

1817 CHAPTER 93

An Act to regulate the Costs of Distresses levied for Payment of Small Rents. [10th July 1817]

WHEREAS divers Persons acting as Brokers, and distraining on the Goods and Chattels of others, or employed in the Course of such Distreffes, have of late made excessive Charges, to the great Oppression of poor Tenants and others; and it is expedient to check such Practices;

be it therefore enacted, by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

No Person making any Distress for Rent, where the Sum due shall not exceed 20l. to take other Charges than mentioned in the Schedule annexed ;

That from and after the passing of this Act no Person whatsoever making any Distress for Rent, where the Sum demanded and due shall not exceed the Sum of Twenty Pounds for and in respect of such Rent, nor any Person whatsoever employed in any Manner in making such Distress, or doing any Act whatsoever in the Course of such Distress, or for carrying the same into Effect, shall have, take, or receive out of the Produce of the Goods or Chattels distrained upon and sold, or from the Tenant distrained on, or from the Landlord, or from any other Person whatsoever, any other or more Costs and Charges for and in respect of such Distress, or any Matter or Thing done therein, than such as are fixed and set forth in the Schedule hereunto annexed and appropriated to each Act which shall have been done in the Course of such Distress;

nor to charge for any Act not done.

and no Person or Persons whatsoever shall make any Charge whatsoever for any Act, Matter, or Thing mentioned in the said Schedule, unless such Act shall have been really done.

II Party aggrieved by any such Practice may apply to a Justice of the Peace. Justice may adjudge Treble the Amount of the Monies unlawfully taken to be paid with Costs, which may be levied by Distress.

And be it further enacted, That if any Person or Persons whatsoever shall in any Manner levy, take, or receive from any Person or Persons whatsoever or retain or take from the Produce of any Goods sold for the Payment of such Rent, any other or greater Cofts and Charges than are mentioned and set down in the said Schedule, or make any Charge whatsoever for any Act Matter, or filing mentioned in the said Schedule, and not really done, it shall be lawful for the Party of Parties aggrieved by such Practices to apply to any One Justice of the Peace for the County, City, Town, and acting for the Division where such Distress shall have been made, or in any Manner proceeded in, for the Redress of his, her, or their Grievance so occasioned ; whereupon such Justice shall summon the Person or Persons complained of to appear before him at a reasonable Time to be fixed in such Summons; and such Justice shall examine into the Matter of such Complaint by all legal Ways and Means, and also hear in like Manner the Defence of the Person or Persons complained of it and if it shall appear to such Justice that the Person or Persons complained of shall have levied, taken, received, or had other and greater Cofts and Charges than are mentioned or fixed in the Schedule hereunto annexed, or made any Charge for any Matter or Thing mentioned in the said Schedule, such Act, Matter, or Thing not having been really done, such Justice shall order and adjudge Treble the Amount of the Monies so unlawfully taken, to be paid by the Person or Persons so having acted to the Party or Parties who shall thus have preferred his, her, or their Complaint thereof, together with full Costs; and in case of Non-payment of any Monies or Cofts so ordered and adjudged to be paid, such Justice shall forthwith issue his Warrant to levy the same by Distress and Sale of the Goods and Chattels of the Party or Parties ordered to pay such Monies or Cofts, rendering the Overplus (if any) to the Owner or Owners, after the Payment of the Charges of such Distress and Sale ; and in case no sufficient Distress can be had, such Justice shall by Warrant under his Hand commit the Party or Parties to the Common Goal or Prison within the Limits of the Jurisdiction of such Justice, there to remain until such Order or Judgment be satisfied.

III Justices may summon Witnesses. Penalty.

And be it enacted by the Authority aforesaid, That it shall be lawful for such Justice, at the Request of the Party complaining or complained against, to summon all Persons as Witnesses, and to administer an Oath to them, touching the Matter of such Complaint or Defence against it; and if any Person or Persons so summoned shall not obey such Summons, without any reasonable or lawful Excuse, or refuse to be examined upon Oath, or if a Quaker upon solemn Affirmation, then every such Person so offending shall forfeit and pay a Sum not exceeding Forty Shillings, to be ordered, levied, and paid in such Manner and by such Means, and with such Power of Commitment, as is herein-before directed as to such Order and Judgment to be given between the Party or Parties in the original Complaint, excepting so far as regards the Form of the Order, and hereinafter provided for.

IV If Complaint unfounded, Justice may give Cofts to the Party complained against. No Judgment to be given against any Landlord, unless he personally levies the Distress. Parties not to be barred of other legal Remedies.

And be it further enacted, That it shall be lawful for such Justice, if he shall find that the Complaint of the Party or Parties aggrieved is not well founded, to order and adjudge

Cofts not exceeding Twenty Shillings to be paid to the Party or Parties complained against, which Order shall be carried into Effect, and levied and paid in such Manner, and with like Power of Commitment, as is herein-before directed as to the Order and Judgment founded on such original Complaint: Provided always, that nothing herein contained shall empower such Justice to make any Order or Judgment against the Landlord for whose Benefit any such Distress shall have been made, unless such Landlord shall have personally levied such Distress: Provided always, that no Person or Persons who shall be aggrieved by any Distress for Rent, or by any Proceedings had in the Course thereof, or by any Cofts and Charges levied upon them in respect of the same, shall be barred from any legal or other Suit or Remedy which he, she, or they might have had before the passing of this Act, excepting so far as any Complaint to be preferred by virtue of this Act shall have been determined by the Order and Judgment of the Justice before whom it shall have been heard and determined ; and which Order and Judgment shall and may be given in Evidence, under the Plea of the General Issue, in all Cafes where the Matter of such Complaint shall be made the Subject of any Action.

V Signature of the Justice Proof of Judgment.

And be it further enacted, That such Orders and Judgments on such Complaints shall be made in the Form in the Schedule hereunto annexed, and may be proved before any Court by Proof of the Signature of the Justice to such Order and Judgment; and such Orders as regard Persons who may have been summoned as Witnesses shall be made in such Form as to such Justice shall seem most fit and convenient.

VI Brokers to give Copies of their Charges to the Persons distrained.

And be it further enacted. That every Broker or other Person who shall make and levy any Distress whatsoever shall give a Copy of his Charges, and of all the Cofts and Charges of any Distress whatsoever, signed by him, to the Person or Persons on whose Goods and Chattels any Distress shall be levied, although the Amount of the Rent demanded shall exceed the Sum of Twenty Pounds.

VII Printed Copy of Act to be hung up in Sessions House.

And be it further enacted, That a fair printed Copy of this Aft shall be hung up in some convenient Place in such Halls or Rooms where the Justices of each and every County in *England* and *Wales* shall hold either their Quarter or other Sessions.

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

SCHEDULE REFERRED
 TO IN THIS ACT

FORM of the Order and Judgment of the Justice before whom Complaint is preferred, where the Order and Judgment is for the Complainant.

IN the Matter of the Complaint of *A. B.* against *C. D.* for a breach of the Provisions of an Act of the Fifty-seventh Year of His Majesty King George the Third, intituled *An Act [here insert the Title of this Act]* I, *E. F.* a Justice of the Peace for the County of _____ and acting within the Division of _____ do order and adjudge that the said *C. D.* shall pay to *A. B.* the Sum of _____ as a Compensation and Satisfaction for unlawful Charges and Cofts levied and taken from the said *A. B.* under a Distress for Rent ; and the further Sum of _____ for Cofts on this Complaint.

(Signed) *E. F.*

FORM of the Order and Judgment of the Justice, where he dismisses the Complaint as unfounded, and with or without Cofts, as the Cafe may be.

In the Matter of the Complaint of *A. B.* against *C. D.* for the Breach of the Provisions of an Act of the Fifty-seventh Year of His Majesty King George the Third, intituled *An Act [here insert the Title of this Act]* I, *E. F.* a Justice of the Peace for the County of _____ and acting within the Division of _____ do order and adjudge that the Complaint of the said *A. B.* is unfounded [*if Cofts are given*] and I do further order and adjudge, that the said *A. B.* shall pay unto the said *C. D.* the Sum of _____ for Cofts.

(Signed) *E. F.*

SCHEDULE OF THE
 LIMITATION OF
 COFTS AND CHARGES
 ON DISTRESSSES
 FOR SMALL RENTS

| | £ | s. | d. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| Levying Distress | 0 | 3 | 0 |
| Man in Possession, per Day | 0 | 2 | 6 |
| Appraisement, whether by One Broker or more, Six-pence in the Pound on the Value of the Goods -Stamp the lawful Amount thereof | | | |

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

| | £ | s. | d. |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| All Expenses of Advertisements, if any such Catalogues, Sale and Commission, and Delivery of Goods, One Shilling in the Pound on the Net Produce of the Sale. | 0 | 10 | 0 |