



# Law of Distress Amendment Act 1908

1908 CHAPTER 53 8 Edw 7

An Act to amend the Law as regards a Landlord's right of Distress for Rent. [21st December 1908]

## Extent Information

E1 For the extent of this Act in relation to Northern Ireland see [s. 10](#)

## 1 Under tenant or lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.

If any superior landlord shall levy, or authorise to be levied, a distress on any furniture, goods, or chattels of—

- (a) any under tenant liable to pay by equal instalments not less often than every actual or customary quarter of a year a rent which would return in any whole year the full annual value of the premises or of such part thereof as is comprised in the under tenancy, or
- (b) any lodger, or
- (c) any other person whatsoever not being a tenant of the premises or of any part thereof, and not having any beneficial interest in any tenancy of the premises or of any part thereof,

for arrears of rent due to such superior landlord by his immediate tenant, such under tenant, lodger, or other person aforesaid may serve such superior landlord, or the bailiff or other agent employed by him to levy such distress, with a declaration in writing made by such under tenant, lodger, or other person aforesaid, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods, or chattels so distrained or threatened to be distrained upon, and that such furniture, goods, or chattels are the property or in the lawful possession of such under tenant, lodger, or other person aforesaid, and are not goods or live stock to which this Act is expressed not to apply; and also, in the case of an under tenant or lodger, setting forth the amount of rent (if any) then due to his immediate landlord, and the times at which future instalments of rent will become due, and the amount thereof, and containing an undertaking to pay to the superior landlord any rent so due or to become due to his immediate landlord, until the arrears of rent in respect of which the distress was levied

*Status: Point in time view as at 01/02/1991.*

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or authorised to be levied have been paid off, and to such declaration shall be annexed a correct inventory, subscribed by the under tenant, lodger, or other person aforesaid, of the furniture, goods, and chattels referred to in the declaration; <sup>F1</sup> . . .

#### Textual Amendments

**F1** Words repealed by [Perjury Act 1911 \(c. 6\)](#), [Sch.](#)

## 2 Penalty.

If any superior landlord, or any bailiff or other agent employed by him, shall, after being served with the before-mentioned declaration and inventory, and in the case of an under tenant or lodger after such undertaking as aforesaid has been given, and the amount of rent (if any) then due has been paid or tendered in accordance with that undertaking, levy or proceed with a distress on the furniture, goods, or chattels of the under tenant, lodger, or other person aforesaid, such superior landlord, bailiff, or other agent shall be deemed guilty of an illegal distress, and the under tenant, lodger, or other person aforesaid, may apply to a justice of the peace for an order for the restoration to him of such goods, and such application shall be heard before a stipendiary magistrate, or before two justices in places where there is no stipendiary magistrate, and such magistrate or justices shall inquire into the truth of such declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to him or them may seem just, and the superior landlord shall also be liable to an action at law at the suit of the under tenant, lodger, or other person aforesaid, in which action the truth of the declaration and inventory may likewise be inquired into.

## 3 Payments by under tenant or lodger to superior landlord.

For the purposes of the recovery of any sums payable by an under tenant or lodger to a superior landlord under such an undertaking as aforesaid, or under a notice served in accordance with section six of this Act, the under tenant or lodger shall be deemed to be the immediate tenant of the superior landlord, and the sums payable shall be deemed to be rent; but, where the under tenant or lodger has, in pursuance of any such undertaking or notice as aforesaid, paid any sums to the superior landlord, he may deduct the amount thereof from any rent due or which may become due from him to his immediate landlord, and any person (other than the tenant for whose rent the distress is levied or authorised to be levied) from whose rent a deduction has been made in respect of such a payment may make the like deductions from any rent due or which may become due from him to his immediate landlord.

## 4 Exclusion of certain goods.

This Act shall not apply—

- (1) to goods belonging to the husband or wife of the tenant whose rent is in arrear, nor to goods comprised in any . . . <sup>F2</sup> settlement made by such tenant, nor to goods in the possession, order, or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof, nor to any [<sup>F3</sup>agisted livestock within the meaning of section 18 of the Agricultural Holdings Act 1986 to which that section]applies;

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- (2) (a) to goods of a partner of the immediate tenant; (b) to goods (not being goods of a lodger) upon premises where any trade or business is carried on in which both the immediate tenant and the under tenant have an interest; (c) to goods (not being goods of a lodger) on premises used as offices or warehouses where the owner of the goods neglects for one calendar month after notice (which shall be given in like manner as a notice to quit) to remove the goods and vacate the premises; (d) to goods belonging to and in the offices of any company or corporation on premises the immediate tenant whereof is a director or officer, or in the employment of such company or corporation:

Provided that it shall be competent for a stipendiary magistrate, or where there is no stipendiary magistrate for two justices, upon application by the superior landlord or any under tenant or other such person as aforesaid, upon hearing the parties to determine whether any goods are in fact goods covered by subsection (2) of this section.

#### Textual Amendments

- F2** Words repealed by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(4), [Sch. 5](#)  
**F3** Words substituted by virtue of [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), ss. 99, 100, [Sch. 13](#) paras. 3, 9, 10, [Sch. 14 para. 4](#)

#### Modifications etc. (not altering text)

- C1** [S. 4](#) excluded in relation to hire purchase agreements made on or after 1.1.1965 by [Hire Purchase Act 1965 \(c. 66\)](#) ss. 53(1)–(3), 59

### [<sup>F4</sup>4A] **Hire purchase etc. agreements.**

- (1) Goods—
- (a) bailed under a hire-purchase agreement or a consumer hire agreement, or
  - (b) agreed to be sold under a conditional sale agreement,
- are, where the relevant agreement has not been terminated, excluded from the application of this Act except during the period between the service of a default notice under the <sup>M1</sup>Consumer Credit Act 1974 in respect of the goods and the date on which the notice expires or is earlier complied with.
- (2) Goods comprised in a bill of sale are excluded from the application of this Act except, during the period between service of a default notice under the Consumer Credit Act 1974 in respect of goods subject to a regulated agreement under which a bill of sale is given by way of security and the date on which the notice expires or is earlier complied with.
- (3) In this section—
- “conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;
  - “consumer hire agreement” has the meaning given by section 15 of the Consumer Credit Act 1974.
  - “hire-purchase agreement” means an agreement, other than a conditional sale agreement, under which—

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- (a) goods are bailed in return for periodical payments by the person to whom they are bailed, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—
  - (i) the exercise of an option to purchase by that person,
  - (ii) the doing of any other specified act by any party to the agreement,
  - (iii) the happening of any other specified event; and

“regulated agreement” has the meaning given by section 189(1) of the <sup>M2</sup>Consumer Credit Act 1974.]

**Textual Amendments**

**F4** S. 4A inserted by [Consumer Credit Act 1974 \(c. 39\)](#), s. 192(4), **Sch. 4 Pt. I para. 5**

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**Marginal Citations**

**M1** [1974 c. 39](#).

**M2** [1974 c. 39](#)

**5 Exclusion of certain under tenants.**

This Act shall not apply to any under tenant where the under tenancy has been created in breach of any covenant or agreement in writing between the landlord and his immediate tenant, or where the under tenancy has been created under a lease existing at the date of the passing of this Act contrary to the wish of the landlord in that behalf, expressed in writing and delivered at the premises within a reasonable time after the circumstances have come, or with due diligence would have come, to his knowledge.

**6 To avoid distress.**

In cases where the rent of the immediate tenant of the superior landlord is in arrear it shall be lawful for such superior landlord to serve upon any under tenant or lodger a notice (by registered post addressed to such under tenant or lodger upon the premises) stating the amount of such arrears of rent, and requiring all future payments of rent, whether the same has already accrued due or not, by such under tenant or lodger to be made direct to the superior landlord giving such notice until such arrears shall have been duly paid, and such notice shall operate to transfer to the superior landlord the right to recover, receive, and give a discharge for such rent.

**Modifications etc. (not altering text)**

**C2** Reference to registered post to be construed as including reference to recorded delivery service: [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1)(2), **Sch. para. 1**

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#### Textual Amendments

**F5** S. 7 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), [Sch. Pt. I](#)

### 8 Repeal of 34 & 35 Vict. c. 9

The Lodgers' Goods Protection Act, 1871, shall, wherever and so far as this Act applies, be repealed <sup>F6</sup> . . .

#### Textual Amendments

**F6** Words repealed by [Statute Law Revision Act 1927 \(c. 42\)](#), s. 1, [Sch. Pt. I](#)

#### Modifications etc. (not altering text)

**C3** The text of s. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 9 Definitions.

In this Act the words “superior landlord” shall be deemed to include a landlord in cases where the goods seized are not those of an under tenant or lodger; and the words “tenant” and “under tenant” do not include a lodger.

### 10 Act not to extend to Scotland.

This Act shall not extend to Scotland and shall only apply in Ireland to a rent issuing out of lands or tenements situate wholly within the boundaries of a municipality or of a township having town commissioners.

### 11 Short title.

This Act may be cited as the Law of Distress Amendment Act 1908.

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