



Law of Distress Amendment Act 1888

1888 CHAPTER 21

An Act to amend the Law of Distress for Rent.

[7th August 1888]

BE it enacted by the Queen'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, as follows:

1 Short title.

This Act may be cited as the Law of Distress Amendment Act, 1888.

2 Extent.

This Act shall not apply to Scotland or Ireland.

3 Commencement.

This Act, except as in this Act otherwise provided, shall come into operation from and immediately after the thirty-first day of October one thousand eight hundred and eighty-eight.

4 Certain goods exempted from distress as under 9 & 10 Vict. c.95 s.96.

From and after the passing of this Act the following goods and chattels shall be exempt from distress for rent; namely, any goods or chattels of the tenant or his family which would be protected from seizure in execution under section ninety-six of the County Courts Act, 1846, or any enactment amending or substituted for the same.

Provided that this enactment shall not extend to any case where the lease, term, or interest of the tenant has expired, and where possession of the premises in respect of which the rent is claimed has been demanded and where the distress is made not earlier than seven days after such demand.

5 Repeal of 2 W. & M. c.5 s.1 except where appraisalment is required in writing.

So much of an Act passed in the second year of the reign of their Majesties King William the Third and Mary, chapter five, as requires appraisalment before sale of goods distrained is hereby repealed, except in cases where the tenant or owner of the goods and chattels by writing-requires such appraisalment to be made, and the landlord or other person levying a distress may, except as aforesaid, sell the goods and chattels distrained without causing them to be previously appraised ; and for the purposes of sale the goods and chattels distrained shall, at the request in writing of the tenant or owner of such goods and chattels, be removed to a public auction room or to some other fit and proper place specified in such request, and be there sold. The costs and expenses of appraisalment when required by the tenant or owner shall be borne and paid by him; and the costs and expenses attending any such removal, and any damage to the goods and chattels arising therefrom, shall be borne and paid by the person requesting the removal.

6 Extension of time to replevy at request of tenant.

The period of five days provided in the said Act of William and Mary, chapter five, within which the tenant or owner of goods and chattels distrained may replevy the same, shall be extended to a period of not more than fifteen days if the tenant or such owner make a request in writing in that behalf to the landlord or other person levying the distress, and also give security for any additional cost that may be occasioned by such extension of time: Provided that the landlord or person levying the distress may, at the written request, or with the written consent, of the tenant or such owner as aforesaid, sell the goods and chattels distrained, or part of them, at any time before the expiration of such extended period as aforesaid.

7 Distress to be levied by certified bailiffs.

From and after the commencement of this Act no person shall act as a bailiff to levy any distress for rent unless he shall be authorised to act as a bailiff by a certificate in writing under the hand of a county court judge; and such certificate may be general or apply to a particular, distress or distresses, and may be granted at any time after the passing of this Act in such manner as may be prescribed by rules under this Act. If any person holding a certificate shall be proved to the satisfaction of the judge of a county court to have been guilty of any extortion or other misconduct in the execution of his duty as a bailiff he shall be liable to have his certificate summarily cancelled by the said judge.

Nothing in this section shall be deemed to exempt such bailiff from any other penalty or proceeding to which he may be liable in respect of such extortion or misconduct.

A county court registrar may exercise the power of granting certificates hereby conferred upon a county court judge in cases in which he may be authorised to do so by rules made under this

If any person not holding a certificate under this section shall levy a distress contrary to the provisions of this Act, the person so levying, and any person who has authorised him so to levy, shall be deemed to have committed a trespass.

8 Power to make rules.

After the passing of this Act the Lord Chancellor may from time to time make, alter, and revoke rules—

- (1) For regulating the security (if any) to be required from bailiffs;
- (2) For regulating the fees, charges, and expenses in and incidental to distresses; and
- (3) For carrying into effect the objects of this Act.

9 Repeal.

Sections forty-nine, fifty, fifty-one, and fifty-two of the Agricultural Holdings (England) Act, 1883, are hereby repealed from and after the commencement of this Act, but this repeal shall not affect anything done or suffered before the commencement of this Act under these sections.