



General Rate Act 1967

1967 CHAPTER 9

PART VI

DISTRESS FOR RATES

96 Enforcement of payment of rates.

- (1) Subject to section 62 of this Act and to subsection (2) of this section, if any person fails to pay any sum legally assessed on and due from him in respect of a rate for seven days after has been legally demanded of him, the payment of that sum may, subject to and in accordance with the provisions of this Part of this Act, be enforced by distress and sale of his goods and chattels under warrant issued by a magistrates' court; and, if there is insufficient distress, he may be liable to imprisonment under the provisions of this Part of this Act in that behalf.
- (2) Where the rates charged on any person in respect of any hereditament are under section 3(4) or section 50(1) of this Act payable by instalments, those rates shall be recoverable only to the extent of each respectively of those instalments as and when it falls due; and for the purposes of subsection (1) of this section no sum by way of rates in respect of any year or part of a year shall be treated as having been legally demanded from any person in respect of any hereditament in respect of which he is entitled to give but has not given a notice under the said section 50(1) until the expiration of the period for the giving of such a notice by that person in that year.
- (3) The reference in subsection (1) of this section to a sum legally assessed on and due from a person in respect of a rate shall include a reference to a sum a person is liable to pay in respect of any rate to which section 177 of the City of London Sewers Act 1848 applies, and references in other provisions of this Part of this Act to a sum to which a person has been rated or to the rating or assessment of a person shall be construed accordingly.

97 Application for warrant of distress.

- (1) The proceedings for the issue of a warrant of distress under this Part of this Act may be instituted by making complaint before a justice of the peace and applying for a

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summons requiring the person named in the complaint to appear before a magistrates' court to show why he has not paid the rate specified in the complaint.

- (2) The forms of complaint and summons in Schedule 12 to this Act, or forms to the like effect, may be used in proceedings under this Part of this Act.
- (3) If the person summoned fails to appear in obedience to the summons and it is proved to the magistrates' court on oath, or in such other manner as may be prescribed by rules under section 15 of the Justices of the Peace Act 1949, that the summons was duly served a reasonable time before the time appointed by the summons for his appearance, the magistrates' court may, if it thinks fit, proceed in his absence as if he had appeared in person in obedience to the summons.

98 Statement of case on application for warrant.

The justices may state a case under the Magistrates' Courts Act 1952 when called upon to issue a warrant of distress under this Part of this Act.

99 Execution of warrant of distress.

- (1) A warrant of distress under this Part of this Act may be directed to the rating authority, to the constables of the police area in which the warrant is issued and to such other persons, if any, as the magistrates' court issuing the warrant may think fit, and the warrant shall authorise the persons to whom it is directed to levy the amount which the person against whom the warrant is issued is liable to pay by distress and sale of his goods and chattels.
- (2) The foregoing provisions of this Part of this Act shall not affect the operation of any enactment which protects goods and chattels of any class from distress or which restricts in any other manner the right to obtain a warrant of distress or its execution.
- (3) A warrant of distress under this Part of this Act may be executed anywhere in England or Wales by any person to whom it is directed or by any constable acting within his police area.
- (4) The forms of warrant of distress in Schedule 12 to this Act, or forms to the like effect, may be used in proceedings under this Part of this Act and, to save expense, one warrant of distress may be issued against any number of persons in default, as in the second of the said forms.
- (5) Any person aggrieved by a distress under this Part of this Act for a rate may appeal to the next court of quarter sessions for the area where the rate was made and the appeal shall be heard and finally determined by that court.
- (6) A distress under this Part of this Act shall not be deemed to be unlawful on account of any defect or want of form in the rate or assessment or in the warrant of distress and no person making the distress shall be deemed a trespasser on that account.
- (7) No person making a distress under this Part of this Act shall be deemed to be a trespasser from the beginning on account of any subsequent irregularity in the execution of the warrant of distress, but a person who has sustained special damage by reason of the irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise.

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100 Costs of obtaining warrant of distress.

- (1) The magistrates' court issuing a warrant of distress under this Part of this Act may, if it thinks fit, include in the warrant an order that such sum as it may deem reasonable for the costs incurred in obtaining the warrant shall be levied under the warrant.
- (2) This section shall have effect subject to the restriction on the allowance of costs imposed by the Poor Rates Recovery Act 1862 (which, in a case where several rates of the same or different kinds are due from the same person, authorises their inclusion in one warrant of distress or other document and directs that no costs be allowed if several such documents are used where one would be enough).

101 Charges for levying distress.

- (1) The Minister may make an order regulating the charges in respect of, and incidental to, the levying of distress for rates; and a warrant of distress under this Part of this Act may provide that the charges attending the distress, to the amount authorised by the order, shall be levied under the warrant.
- (2) Without prejudice to the generality of the foregoing subsection, an order under this section may include provision as to charges in cases where, in pursuance of an agreement in that behalf, the goods distrained are not removed from the premises where the distress is levied, whether any person is left in physical possession of the goods or not.
- (3) An order under this section may contain such incidental and supplementary provisions (including provisions as to the settlement of disputes with respect to any charges to which the order relates) as may appear to the Minister to be necessary or expedient for the purposes of the order.

102 Imprisonment in default of sufficiency of distress.

- (1) If the person charged with the execution of a warrant of distress for levying a sum to which some other person has been rated makes a return to the magistrates' court that he could find no goods or chattels (or no sufficient goods or chattels) on which to levy the sums directed to be levied under the warrant on that other person's goods and chattels, a magistrates' court may, if it thinks fit, and subject to the provisions of section 103 of this Act, issue a warrant of commitment against that other person.
- (2) A warrant of commitment under this section may be directed to the rating authority, to the constables of the police area in which the warrant is issued and to such other persons, if any, as the magistrates' court issuing the warrant may think fit; and the warrant may be executed anywhere in England or Wales by any person to whom it is directed or by any constable acting within his police area.
- (3) The warrant of commitment shall be made not only for non-payment of the sum alleged to be due for rates but also for—
 - (a) such costs incurred in obtaining the warrant of distress as may have been included in the warrant of distress;
 - (b) the charges attending the distress ; and
 - (c) the costs of commitment;and the said costs and charges shall be stated in the warrant of commitment.

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- (4) The form of warrant of commitment in Schedule 12 to this Act, or a form to the like effect, may be used in proceedings under this Part of this Act.
- (5) The order in the warrant of commitment shall be that the said person be imprisoned for a time therein specified but not exceeding three months, unless the sums mentioned in the warrant shall be sooner paid ; but if payment is made in accordance with rules under section 15 of the Justices of the Peace Act 1949 of part of the said sums mentioned in the warrant, the period of imprisonment shall be reduced by such number of days as bears to the total number of days in the period specified in the warrant less one day the same proportion as the amount so paid bears to so much of the said sums as was due at the time when the period of imprisonment was imposed; and in calculating the reduction required under this subsection any fraction of a day shall be left out of account.
- (6) A single warrant of commitment shall not be issued under this section against more than one person.

103 Inquiry as to means before issue of warrant of commitment.

- (1) Section 102 of this Act shall have effect subject to and in accordance with the following provisions:—
 - (a) on the application for the issue of a warrant for the commitment of any person, the magistrates' court shall make inquiry in his presence as to whether his failure to pay the sum to which he was rated and in respect of which the warrant of distress was issued was due either to his wilful refusal or to his culpable neglect;
 - (b) if the magistrates' court is of opinion that the failure of the said person to pay the said sum was not due either to his wilful refusal or to his culpable neglect, it shall not issue the warrant.
- (2) Where on the application no warrant of commitment is issued, the magistrates' court may remit the payment of any sum to which the application relates, or of any part of that sum.
- (3) Where on the application no warrant of commitment is issued, the application may be renewed, except so far as regards any sum remitted under subsection (2) of this section, on the ground that the circumstances of the person to whom the application relates have changed.
- (4) A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be evidence of the facts therein stated in any proceedings taken before a magistrates' court under this Part of this Act against that person.

104 Attendance of defaulter for purposes of inquiry.

- (1) For the purpose of enabling inquiry to be made in . his presence as to the conduct and means of a person in relation to whom a return of insufficiency of distress has been made a mentioned in section 102(1) of this Act, a justice of the peace having jurisdiction in the petty sessions area in which the return is made may at any time issue a summons to that person to appear before a magistrates' court having jurisdiction under this Part of this Act and, if he does not appear in obedience to the summons,

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may issue a warrant for his arrest or, without issuing a summons, issue in the first instance a warrant for his arrest.

- (2) Where a warrant is issued under this section, then, unless the sum in respect of which the warrant is issued is sooner paid to the police officer holding the warrant, the warrant may be executed in the like manner, and the like proceedings may be taken for the execution thereof, in any part of the United Kingdom, as if it had been a warrant of arrest issued under section 15 of the Magistrates' Courts Act 1952.

105 Abatement of proceedings on payment of rate and costs.

- (1) If after proceedings have been taken under this Part of this Act against a person to compel payment of any sum for rates, but not after he has been imprisoned in default of a sufficiency of distress, that person pays or tenders to the rating authority, or to some other person authorised to receive the rates, the sum sought to be recovered together with the amount of all costs and charges up to that time incurred in the proceedings, the rating authority or other person shall accept the amount so paid or tendered and no further proceedings shall be taken for the recovery thereof.
- (2) If after the issue of a warrant of distress under this Part of this Act for a rate the person against whom it is issued tenders the amount of the rate before any levy is made, he shall nonetheless be liable to pay the cost of the warrant and of any person for his attendance to make the levy.

106 Jurisdiction of justices.

- (1) Subject to the provisions of section 104(1) of this Act, justices of the peace may act under the provisions of this Part of this Act as respects a rate if they are justices appointed for an area which comprises the rating area or, in Greater London, a part of the rating area.
- (2) Subject to any enactment in any other Act authorising a stipendiary magistrate or other person to act by himself, a magistrates' court shall not hear a summons for the issue of a warrant of distress under this Part of this Act, or entertain an application for a warrant of commitment under this Part of this Act, or hold an inquiry as to means on such an application, except when composed of at least two justices.

107 Application of other Acts.

- (1) For the purposes of section 122(3) of the Magistrates' Courts Act 1952 (under which enactments passed before 16th December 1949 may be amended by rules governing the procedure of magistrates' courts), this Part of this Act shall be deemed to have been passed before that date.
- (2) Nothing in the Distress (Costs) Act 1817, as extended by the Distress (Costs) Act 1827 (which make provision as to the costs and expenses chargeable in respect of the levying of certain distresses) shall apply to distress for rates.