

LAWS OF DOMINICA

RECOVERY OF RENT ACT

CHAPTER 54:70

**Act
16 of 1890**

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
<i>1-11</i>	<i>1/1991</i>

L.R.O. 1/1991

**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 54:70**RECOVERY OF RENT ACT****ARRANGEMENT OF SECTIONS**

SECTION

1. Short title.
2. Interpretation.
3. Sale of distress.
4. Time to replevy may be extended.
5. Distress to be levied by certified bailiffs.
6. Power to seize goods fraudulently received.
7. Persons fraudulently removing or concealing goods or assisting therein to pay double value.
8. Summary remedy before Magistrate where value of goods carried away or concealed does not exceed two hundred and forty dollars.
9. Power to break open house or place in which goods removed are locked up.
10. Distress may be impounded upon premises.
11. Animals impounded to be fed by person impounding them.
12. If animal not fed, third person may feed it and recover cost from owner.
13. Recovery of expenses of feeding animal impounded.
14. Distress for rent after determination of lease.
15. Executor of lessor may distrain.
16. Protection of lodgers from distress by lodger making a declaration of his goods.
17. Remedy for distress on lodger's goods after declaration.
18. Payment of rent to landlord by lodger.
19. Landlord may distrain from time to time where no sufficient distress.
20. Protection of landlord from executions.
21. Damages for pound breach.
22. Damages for fraudulent distress.
23. Special damage only may be recovered for irregularity in making distress.
24. Growing crops may be distrained.
25. Power to Minister to make, alter and revoke Rules.

CHAPTER 54:70

RECOVERY OF RENT ACT

1961 Ed.
Cap. 18.
16 of 1890.

AN ACT relating to the recovery of rent.

Commencement.

[3rd March, 1890]

Short title.

1. This Act may be cited as the –

RECOVERY OF RENT ACT.

Interpretation.

2. In this Act, the expression “prescribed” means prescribed by Rules made under section 25.

Sale of distress.

3. (1) Where any goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract whatsoever, and the tenant or owner of the goods so distrained does not within five days next after the distress taken, and notice thereof, with the cause of the taking, left at the chief dwelling-house or other most notorious place of the premises charged with the rent distrained for, replevy the same with sufficient security to be given to the prescribed official according to law, then and in such case after the distress and notice as aforesaid and expiration of the said five days, the person distraining shall and may with the prescribed official or a member of the police service (who is hereby required to be aiding and assisting therein) lawfully sell the goods and chattels, so distrained, for the best price that can be obtained for the same, towards satisfaction of the rent for which the said goods and chattels are distrained and of the charges of the distress and sale, leaving the overplus (if any) in the hands of the said prescribed official or member of the police service for the owner’s uses.

(2) Where the tenant or owner of the goods and chattels by writing requires an appraisalment to be made, the person distraining and the prescribed official or member of the police service where the distress is taken shall cause the goods and chattels so distrained to be appraised, in the prescribed manner, before the sale of the goods, and for the purpose of sale the goods and chattels shall at the request in writing of the tenant or owner of the goods and chattels be removed to a public auction room or some other fit and proper place specified in the request and be there sold.

(3) 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.

4. The period of five days provided in section 3 within which the tenant or owner of goods distrained may replevy the same shall be extended to a period of not more than fifteen days if the tenant or owner makes a request in writing for an extension of time to the landlord or other person levying the distress, and also gives security for any additional costs that may be occasioned for the extension of time; but the landlord or person levying the distress may at the written request or with the written consent of the tenant or the owner sell the goods and chattels distrained or part of them at any time before the expiration of the extended time.

Time to replevy
may be extended.

5. (1) From and after the commencement of this Act, no person shall act as bailiff to levy any distress for rent unless he is authorised to act as a bailiff by a certificate in writing under the hand of a Registrar of the High Court, and the 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.

Distress to be
levied by
certified bailiffs.

(2) If any person holding a certificate is proved to the satisfaction of a Registrar of the High Court to be guilty of an extortion or other misconduct in the execution of his duty as a bailiff, he is liable to have his certificate summarily cancelled by the Registrar.

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

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

6. In case any lessee for life or lives, term of years, at will or otherwise of any messuages, lands or tenements on the demise whereof any rents are or shall be reserved or made payable, after the publication of this Act, fraudulently or clandestinely conveys or carries off from the demised premises his goods or chattels with intent to prevent the

Power to seize
goods fraudu-
lently received.

landlord or lessor from distraining the same for arrears of rent so reserved, the landlord or lessor or any person or persons by him for that purpose lawfully empowered may, within the space of thirty days next ensuing the carrying off or conveying away the goods and chattels, take and seize the goods and chattels wheresoever the same are found as a distress for the arrears of the rent and may sell or otherwise dispose of the same, in such manner as if the goods and chattels had actually been distrained by the lessor or landlord in and upon the demised premises for the arrears of rent, any law, custom or usage to the contrary in anywise notwithstanding; but nothing contained in this Act shall extend or be construed to extend the powers of the lessor or landlord to take or seize any goods or chattels as a distress for arrears of rent which are sold *bona fide* and for a valuable consideration before the seizure made, anything herein contained to the contrary notwithstanding.

Persons fraudulently removing or concealing goods or assisting therein to pay double value.

7. If any tenant or lessee fraudulently removes and conveys away his or her goods or chattels, as mentioned in section 6, or if any person or persons wilfully and knowingly aid or assist any tenant or lessee to do so, the tenant or lessee or person or persons, shall pay to the landlord or lessor from whose estate the goods and chattels were fraudulently carried off, double the value of the goods by him carried off or concealed, to be recovered by action.

Summary remedy before Magistrate where value of goods carried away or concealed does not exceed two hundred and forty dollars.

8. Where the goods or chattels so fraudulently carried off or concealed does not exceed the value of two hundred and forty dollars, the landlord, from whose estate the goods or chattels were removed, or his bailiff, servant or agent may exhibit a complaint in writing against the offender before the Magistrate in the district in which is situated the place whence the goods and chattels were removed or the place where the same are found, who may determine in a summary way whether such person is guilty of the offence with which he is charged, and upon full proof of the offence, the Magistrate shall adjudge the offender to pay double the value of the goods and chattels to the landlord or his bailiff, servant or agent at such time as the Magistrate shall appoint. And in case the offender, having notice of the order, refuses or neglects to do so, shall by warrant levy the same by distress and sale of the goods and chattels of the offender, and for want of the distress may commit the offender to imprisonment for three months unless the money so ordered to be paid as aforesaid is sooner satisfied; but any person who thinks himself aggrieved by the order of the Magistrate may appeal under the law for the time in force regulating appeals from Magistrates' decisions.

9. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or lessee or other persons aiding or assisting therein are placed or kept in any house or place locked up, fastened or otherwise secured so as to prevent the goods or chattels from being taken and seized as a distress for arrears of rent, the landlord or lessor or any person empowered by him to take or seize as a distress for rent the goods and chattels (first calling to his assistance the prescribed official or some member of the police service having jurisdiction in the place where the same is suspected to be concealed, who is hereby required to aid and assist therein, and in case of a dwelling-house, oath being first made before a Magistrate of a reasonable ground to suspect that the goods and chattels are therein), in the daytime, may break and open and enter into the house or place and take and seize the goods and chattels for the arrears of rent.

Power to break open house or place in which goods removed are locked up.

10. Any person or persons lawfully taking any distress for any kind of rent may impound or otherwise secure the distress so made, of whatsoever nature or kind it may be, in such place or on such part of the premises chargeable with the rent as shall be most fit and convenient for the impounding and securing the distress, and may appraise, sell and dispose of the same upon the premises in like manner and under the like directions and restraints to all intents and purposes as any person taking a distress for rent may do off the premises; and any person or persons whatsoever may come and go to and from such place or part of the said premises, where any distress for rent is secured and impounded as aforesaid, in order to view, appraise and buy and also in order to carry off or remove the same on account of the purchaser thereof. And if any pound-breach or rescue is made of any goods or chattels or stock distrained for rent and impounded or otherwise secured by virtue of this section, the person or persons aggrieved thereby shall have the same remedies given by section 21.

Distress may be impounded upon premises.

11. Every person who impounds or confines or causes to be impounded or confined in any pound or receptacle of the like nature any animal, shall provide and supply during the confinement a sufficient quantity of fit and wholesome food and water to the animal; and any person who refuses or neglects to provide and supply the animal with the food and water as aforesaid is for every such offence liable on summary conviction to a fine of fifty dollars.

Animals impounded to be fed by person impounding them.

If animal not fed, third person may feed it and recover cost from owner.

12. In case any animal is at any time impounded or confined as aforesaid and continues confined without sufficient food and water for more than twelve successive hours, it shall be lawful for any person whomsoever, from time to time and as often as shall be necessary, to enter into and upon any pound or other receptacle of the like nature in which any such animal is so confined, and to supply such animal with fit and sufficient food and water during so long a time as such animal remains and continues confined as aforesaid, without being liable to any action or any other proceeding by any person for or by reason of such entry for the purposes aforesaid. And the reasonable cost of the food and water shall be paid by the owner of the animal, before the animal is removed, to the person who supplies the same; and the said cost may be recovered by summary proceedings before a Magistrate.

Recovery of expenses of feeding animal impounded.

13. Every person who impounds or confines any animal and provides and supplies the animal with food and water shall recover from the owner or owners of the animal the value of the food and water so supplied, together with the costs of providing the same, before a Magistrate in a summary way. And every such person instead of proceeding for the recovery of the value and expense of providing the food and water may, after the expiration of seven clear days from the date of impounding the same, sell any such animal openly at any public market (after having given three days' public notice thereof) for the most money that can be got for the same and apply the proceeds in discharge of the value of the food and water so supplied as aforesaid, and the cost of supplying the same and the expense of and attending the sale, tendering the surplus (if any) to the owner of the animal. Where several animals are distrained for rent, one of them may be sold for the expenses of all, and this may be repeated *toties quoties*.

Distress for rent after determination of lease.

14. From and after the publication of this Act, any person having any rent in arrear or due upon any lease for life or for years or at will ended or determined may distress for the arrears after the determination of the respective leases, in the same manner as they might have done if the lease or leases had not been ended or determined, provided the distress is made within the space of six calendar months after the determination of the lease and during the continuance of the landlord's title or interest and during the possession of the tenant from whom the arrears became due.

15. The executors or administrators of any lessor or landlord may distrain upon the land demised for any term or at will for the arrears of rent due to the lessor or landlord in his lifetime in like manner as the lessor or landlord might have done in his lifetime.

Executor of lessor may distrain.

16. If any superior landlord levies or authorises to be levied a distress on any furniture, goods or chattels of any lodger for arrears of rent due to the superior landlord by his immediate tenant, the lodger may serve the superior landlord or the prescribed official or other person employed by him to levy the distress with a declaration in writing, made by the lodger, setting forth that the immediate tenant has no right to the property or beneficial interest in the furniture, goods or chattels so distrained or threatened to be distrained upon, and that the furniture, goods or chattels are the property or are in the lawful possession of the lodger, and also setting forth whether any and what rent is due and for what period from the lodger to his immediate landlord, and the lodger may pay to the superior landlord, or to the prescribed official or other person employed by him as aforesaid, the rent if any so due as last aforesaid or so much thereof as shall be sufficient to discharge the claim of the superior landlord; and to the declaration shall be annexed a correct inventory subscribed by the lodger of the furniture, goods and chattels referred to in the declaration, and any lodger who makes or subscribes the declaration and inventory, knowing the same or either of them to be untrue in any material particular, is guilty of a misdemeanour.

Protection of ledges from distress by lodgers making a declaration of his goods.

17. Any superior landlord or any prescribed official or other person employed by him, who after being served with the before-mentioned declaration and inventory and after the lodger has paid or tendered to the landlord, prescribed official or other person, the rent, if any, which by section 16 the lodger is authorised to pay, levies or proceeds with a distress of the furniture, goods or chattels of the lodger, is guilty of an illegal distress and the lodger may apply to the Magistrate or the owner for the restoration to him of the goods, and the Magistrate shall inquire into the truth of the declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to him may seem just, and the superior landlord shall also be liable to an action at law at the suit of the lodger in which action the truth of the declaration and inventory may likewise be inquired into.

Remedy for distress on lodger's goods after declaration.

18. Any payment made by any lodger pursuant to section 16 shall be deemed a valid payment on account of any rent due from him to his immediate landlord.

Payment of rent to landlord by lodger.

Landlord may
distrain from
time to time
where no
sufficient
distress.

19. In all cases where the value of the goods or chattels distrained is not found to be the full value of the arrears distrained for, the party to whom the arrears are due, his executors or administrators may from time to time distrain again for the residue of the arrears; but no second distress shall be justified where there was enough which might have been taken upon the first distress.

Protection of
landlord from
executions.

20. From and after the publication of this Act, no goods or chattels whatsoever lying, being in or upon any messuages, lands or tenements which are or shall be leased for life or lives, term of years, at will or otherwise shall be liable to be taken by virtue of any execution or any pretence whatsoever, unless the person at whose suit execution is sued out, before the removal of the goods from off the said premises by virtue of the execution or extent, pays to the landlord of the said premises or his bailiff all such sum or sums of money as are or shall be due for rent of the said premises at the time of taking the goods or chattels by virtue of the execution, provided the arrears of rent do not amount to more than one year's rent, and in case the said arrears exceeds one year's rent then the said party at whose suit the execution is sued out, paying the said landlord or his bailiff one year's rent, may proceed to execute his judgment as he might have done before the making of this Act and the prescribed official is hereby empowered and required to levy and pay to the plaintiff as well the moneys so paid for rent as the execution money.

Damages for
pound breach.

21. Upon any pound breach or rescue of goods or chattels distrained for rent, the person or persons aggrieved thereby shall for the wrong thereby sustained recover his and their treble damages and costs of action in an action against the offender or offenders in any such rescue or pound breach or any or either of them, or against the owner of the goods distrained in case the same is afterwards found to have come to his use or possession.

Damages for
fraudulent
distress.

22. In case where any distress and sale is made by virtue or colour of this present Act for rent pretended to be in arrear and due, where in truth no rent is in arrear and due to the person or persons distraining or to him or them in whose name or names or right the distress is taken as aforesaid, then the owner of the goods and chattels distrained and sold as aforesaid, his executors or administrators, shall and may in an action to be brought against the person or persons so distraining or any or either of them, his or their executors or administrators, recover double the value of the goods and chattels so distrained and sold together with full costs of suit.

23. Where any distress is made for any kind of rent justly due and any irregular or unlawful act is afterwards done by the party distraining or his agent, the distress itself shall not be therefore deemed unlawful nor the party a trespasser *ab initio*, but the party aggrieved by the unlawful act shall recover full satisfaction for the special damage thereby sustained and no more, but the plaintiff shall not recover in any such action if tender of amends has been made by the party distraining or his agent before the action brought.

Special damage only may be recovered for irregularity in making distress.

24. After the passing of this Act, any lessor or landlord may take and seize as a distress for arrears of rent all sorts of roots or other product whatsoever which is growing on any parts of the estates so demised or holden and the same to cut, gather, make, cure, carry and lay up in the barns, or other proper places on the premises so demised or holden, and in case there is no barn or proper place on the premises so demised or holden, then in any other proper place which the lessor or landlord shall hire or otherwise procure for that purpose (as near as may be to the demised premises); and in convenient time to appraise, sell or otherwise dispose of the same towards satisfaction of the rent for which the distress has been taken and of the charges of the distress, appraisal and sale in the same manner as other goods and chattels may be seized, distrained and disposed of, and the appraisal thereof shall be taken when cut, gathered, cured and made and not before: but nothing contained in this Act shall in any way affect or prejudice any right, title or privilege given or acquired to or by any person, company or corporation by, under, or by virtue of the Title by Registration Act, or shall in any way affect the provisions of the said Act.

Growing crops may be distrained.

Ch. 56:50.

25. From and after the passing of this Act, the Minister may from time to time make Rules –

Power to Minister to make, alter and revoke Rules.

- (a) for regulating the security (if any) to be required from bailiffs;
- (b) for regulating the fees, charges and expenses in and incidental to distresses; and
- (c) for carrying into effect the objects of this Act.

