



ST. CHRISTOPHER AND NEVIS

CHAPTER 5.16

RECOVERY OF RENT ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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CHAPTER 5.16
RECOVERY OF RENT ACT

AN ACT TO PROVIDE FOR THE RECOVERY OF RENT; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Recovery of Rent Act.

Sale of distress.

2. (1) Where goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract, and the tenant or owner of the goods so distrained does not within five days next after the distress is taken, and notice of the distress given, 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 referred to in this section and expiration of the five days, the person distraining shall, and may, with the prescribed official or a member of the police force, (who are hereby required to be aiding and assisting therein) lawfully sell the goods and chattels, so distrained, for the best price that can be gotten for the same, towards satisfaction of the rent for which the goods and chattels are distrained and of the charges of such distress and sale, leaving the surplus (if any) in the hands of the prescribed official or member of the police force for the owner's uses:

Provided that 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 force 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.

- (2) The costs and expenses of appraisalment when required by the tenant or owner shall be borne and paid by him or her and the costs and expenses attending any removal and any damage to the goods and chattels arising therefrom shall be borne and paid by the person requesting the removal.

Time to replevy may be extended.

3. The period of five days provided in section 2 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 in that behalf 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:

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 the extended time.

Distress to be levied by certified bailiffs.

4. (1) From and after the commencement of this Act a person shall not act as bailiff to levy any distress for rent unless he or she is authorised to act as a bailiff by a certificate in writing under the hand of the Registrar of the High Court, and such certificate may be general or may 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.

(2) If a person holding a certificate shall be proved to the satisfaction of the Registrar of the High Court to have been guilty of an extortion or other misconduct in the execution of his or her duty as a bailiff he or she shall be liable to have his or her 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 or she may be liable in respect of the extortion or misconduct.

(4) If a person who does not hold a certificate under this section levies a distress contrary to the provisions of this Act that person and any person who has authorised him or her to make the levy shall be deemed to have committed a trespass.

Power to seize goods fraudulently received.

5. In case any lessee for life or lives, term of years, at will or otherwise of any messuages, lands or tenements on the demise of which any rents are or shall be reserved or made payable, shall after the publication of this Act, fraudulently or clandestinely convey or carry off from the demised premises his or her goods or chattels with intent to prevent the landlord or lessor from distraining the same for arrears of rent so reserved, it shall and may be lawful to and for the landlord or lessor or any person or persons by him or her for that purpose lawfully empowered, within the space of thirty days next ensuing the carrying off or conveying away the goods and chattels, to take and seize the goods and chattels wherever the same shall be found as a distress for the arrears of such rent and the same to sell or otherwise dispose of, 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:

Provided that nothing 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 shall be sold *bonâ fide* and for a valuable consideration before the seizure is made, anything herein contained to the contrary notwithstanding.

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

6. If a tenant or lessee fraudulently removes and conveys away his or her goods or chattels, as mentioned in section 5, or if any person wilfully and knowingly aids or assists such tenant or lessee to do so, the tenant or lessee or person, 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 or her carried off or concealed, to be recovered by action.

Summary remedy before Magistrate where value of goods carried away or concealed does not exceed \$24.00.

7. (1) Where the goods or chattels so fraudulently carried off or concealed do not exceed the value of twenty-four dollars (\$24.00), it shall be lawful for the landlord,

from whose estate the goods or chattels were removed, or his or her bailiff, servant or agent to exhibit a complaint in writing against the offender or offenders before the Magistrate for the district in which is situated the place where the goods and chattels were removed or the place where the same are found.

(2) Upon receipt of the complaint, the Magistrate may determine in a summary way, whether the person or persons is or are guilty of the offence with which he or she or they are charged, and upon full proof of the offence, the Magistrate shall adjudge the offender or offenders to pay double the value of the goods and chattels to the landlord or his or her bailiff, servant or agent at such time as the Magistrate shall appoint.

(3) In case the offender or offenders, having notice of the order, refuse or neglect to, comply with the order the Magistrate shall, by warrant, levy the same by distress and sale of the goods and chattels of the offender or offenders, and for want of such distress may commit the offender or offenders to be kept to hard labour for a period of three months in the common "prison" or "jail" unless the money ordered to be paid is sooner satisfied:

Provided that it shall be lawful for any person who thinks himself or herself aggrieved by the order of the Magistrate to appeal under the law for the time in force regulating appeals from Magistrates' decisions.

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

8. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by a tenant or lessee or other persons aiding or assisting in that respect are placed or kept in any house or place locked up, fastened or otherwise secured so as to prevent such 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 or her to take or seize as a distress for rent such goods and chattels (first calling to his or her assistance the prescribed official or some member of the police force having jurisdiction in the place where the same are suspected to be concealed, who are hereby required to aid and assist in that respect, 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 such house or place and take and seize the goods and chattels for the arrears of rent.

Distress may be impounded upon premises.

9. (1) A person who lawfully takes any distress for any kind of rent may impound or otherwise secure the distress so made, of whatever nature or kind it may be, in such place or on such part of the premises chargeable with the rent as are 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.

(2) Any person may come and go to and from the place or part of the premises, where any distress for rent is secured and impounded, in order to view, appraise and buy and also in order to carry off or remove the same on account of the purchaser thereof.

(3) 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 20.

Animals impounded to be fed by person impounding them.

10. (1) A 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 such confinement a sufficient quantity of fit and wholesome food and water to the animal.

(2) A person who refuses or neglects to provide and supply the animal with food and water as provided by subsection (1), shall for such offence forfeit and pay a penalty of fifty dollars, to be recovered by summary proceedings before a Magistrate.

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

11. (1) In case any animal is, at any time, impounded or confined as provided in section 10 and continues to be confined without sufficient food and water for more than twelve successive hours, it shall be lawful to and for any person, as often as shall be necessary, enter into and upon any pound or other receptacle of the like nature in which the animal is confined, and to supply the animal with fit and sufficient food and water during the time such animal remains and continues to be confined without being liable to any action or any other proceeding by any person for or by reason of such entry for the purposes mentioned in this subsection.

(2) The reasonable cost of food and water shall be paid by the owner of the animal, before the animal is removed, to the person who supplied the same; and the cost may be recovered by summary proceedings before a Magistrate.

Recovery of expenses of feeding animal impounded.

12. (1) A 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 supplied, together with the costs of providing the same, before a Magistrate in a summary manner.

(2) The person referred to in subsection (1) may, instead of proceeding for the recovery of the value and expense of providing the food and water, after the expiration of seven clear days from the date of impounding the same, sell the 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 supplied, and the cost of supplying the same and the expense of and attending such sale, tendering the surplus (if any) to the owner of such animal.

(3) 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.

13. From and after the publication of this Act, it shall be lawful for any person or persons having any rent in arrears or due upon any lease for life or lives or for years or at will ended or determined to distrain 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 that the distress be made within a period 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.

Executor of lessor may distrain.

14. It shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the land demised for any term or at will for the arrears of rent due to the lessor or landlord in his or her lifetime in like manner as such lessor or landlord might have done in his or her lifetime.

Protection of lodgers from distress by lodger making a declaration of his or her goods.

15. (1) 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 or her immediate tenant, the lodger may serve the superior landlord or the prescribed official or other person employed by him or her to levy the distress with a declaration in writing, made by the lodger, setting forth that such immediate tenant has no right to the property or beneficial interest in the furniture, goods or chattels 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 or her immediate landlord, and the lodger may pay to the superior landlord, or to the prescribed official or other person employed by him or her, the rent (if any) so due or so much thereof as is sufficient to discharge the claim of the superior landlord; and to the declaration there shall be annexed a correct inventory subscribed by the lodger of the furniture, goods and chattels referred to in the declaration.

(2) If any lodger makes or subscribes to the declaration and inventory, knowing the same or either of them to be untrue in any material particular, he or she commits a misdemeanour.

Remedy for distress on lodger's goods after declaration.

16. (1) If any superior landlord or any prescribed official or other person employed by him or her, after being served with the declaration and inventory referred to in section 15 and after the lodger has paid or tendered to the landlord, prescribed official or other person, the rent, if any, which by section 15 the lodger is authorised to pay, levies or proceeds with a distress of the furniture, goods or chattels of the lodger, the superior landlord, prescribed official or other person shall be deemed guilty of an illegal distress and the lodger may apply to the Magistrate or the owner for the restoration to him or her of the goods.

(2) 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 or her 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.

Payment of rent to landlord by lodger.

17. Any payment made by a lodger pursuant to section 15 shall be deemed a valid payment on account of any rent due from him or her to his or her immediate landlord.

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

18. In all cases where the value of the goods or chattels distrained are not found to be the full value of the arrears distrained for, the party to whom the arrears are due, his or her executors or administrators may, from time to time, distrain again for the residue of the arrears:

Provided that no second distress shall be justified where there was enough which might have been taken upon the first distress.

Protection of landlord from executions.

19. From and after the publication of this Act, no goods or chattels 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, unless the person at whose suit execution is brought shall, before the removal of the goods from off the premises by virtue of the execution, pay to the landlord of the premises or his or her bailiff all such sum or sums of money as are or shall be due for rent of the premises at the time of taking the goods or chattels by virtue of such execution:

Provided that the arrears of rent do not amount to more than one year's rent, and in case the arrears exceed one year's rent, then the party at whose suit the execution is sued out, paying the landlord or his or her bailiff one year's rent, may proceed to execute his or her judgment as he or she 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.

20. 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 or her and their treble damages and costs of action in an action against the offender or offenders in the rescue or pound breach or any or either of them, or against the owner of the goods distrained in case the same shall be afterwards found to have come to his or her use or possession.

Damages for fraudulent distress.

21. In case where any distress and sale is made by virtue or colour of this 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 her or them in whose name or names or right such distress is taken, then the owner of the goods and chattels distrained and sold, his or her 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 her or their executors or administrators, recover double the value of the goods and chattels so distrained and sold together with full costs of suit.

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

22. 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 or her 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 the action if tender of amends has been made by the party distraining or his or her agent before the action is brought.

Growing crops may be distrained.

23. After the passing of this Act it shall be lawful for any lessor or landlord to take and seize as a distress for arrears of rent all sorts of roots or other product which are growing on any parts of the estates 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 demised or holden, and in case there shall be no barn or proper place on the premises 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 is taken and of the charges of the distress, appraisement and sale in the same manner as other goods and chattels may be seized, distrained and disposed of, and the appraisement thereof shall be taken when cut, gathered, cured and made and not before:

Provided that nothing 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, Cap. 10:19 or shall in any way affect the provisions of the said Act.

Rules.

24. The Chief Justice may make 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.

(Amended by Act 6 of 1976)

SCHEDULE*(Section 24)***RECOVERY OF RENT RULES****Short title.**

1. These Rules may be cited as the Recovery of Rent Rules.

Interpretation.

2. In these Rules “the Act” means the Recovery of Rent Act.

Certificate to Act as Bailiff.

3. (1) The certificate to be granted by the Registrar of the High Court authorizing any person to act as a bailiff to levy any distress for rent may be in the Form A or B in the Schedule as the nature of the case may require.

(2) When the Registrar grants any certificate authorising any person to act as the bailiff, he or she shall prepare and sign the certificate in duplicate, and one of the certificates shall be delivered to the person whose name is mentioned in the certificate, and the other shall be kept by him or her as a record and both certificates shall be deemed originals for all purposes.

(3) Before the Registrar grants any certificate, the person to whom the same is to be granted shall deliver to the Registrar a written request for the certificate; and the request shall state whether the person desiring the same desires a general certificate or a certificate to act in a particular distress or particular distresses only, and if the latter, then the request shall state the particular distress or distresses in which the person desires to act, and all requests shall be signed by the person who desires the certificate in the presence of the Registrar.

(4) The person requiring the certificate shall, if the Registrar requires it, give security for the faithful performance of his or her duties as bailiff and for the accounting for monies coming to his or her hands as bailiff in respect of distresses generally or the particular distress or distresses concerning which the certificate is granted.

(5) The Registrar shall have full discretion to grant or refuse any application for a certificate of authority to levy distresses or any distress notwithstanding that the applicant may have complied with the requirements of these rules and the Act.

Form of Security.

4. (1) When the Registrar requires security, such security shall be in the form of a bond to the Registrar, executed by the applicant and one or more sufficient sureties as the Registrar may require in a sum not exceeding ninety-six dollars in the case of general certificate, and in a sum not exceeding twenty-four dollars in the case of a particular distress or distresses, and the sufficiency of such surety or sureties shall be inquired into and decided upon by the Registrar.

(2) All bonds given shall be signed in the presence of the Registrar granting the certificate and one other person, and shall be kept by the Registrar, and the expense of stamping and recording the bond, if necessary, shall be paid by the applicant.

Certificate to be endorsed When Granted Without Security.

5. When any certificate of authority is granted by a Registrar without security he or she shall endorse on the certificate the words “granted without security”, and shall sign the endorsement.

Breach of Conditions of Bond.

6. In the event of a breach of any of the conditions of any bond given as provided in these rules, and of the Registrar recovering any money on the bond, the amount recovered shall, after the payment of all expenses incurred in recovering the same, be disposed of by the Registrar in compensating any person or persons for loss sustained by him or her or them consequent upon the improper act or default of the bailiff in such manner as the Minister may direct.

Fees.

7. (1) The fees, charges and expenses to be demanded and taken as incidental to distress shall be as provided for in the Schedule to these rules.

(2) All fees received by the Registrar in accordance with the Schedule to these rules shall be paid by him or her into the public Treasury.

Prescribed Official under the Act.

8. The prescribed official within the meaning of the Act shall be the Registrar.

Appraisement.

9. When any appraisement is demanded or shall become necessary pursuant to the provisions of the Act such appraisement shall be made as follows, that is to say—

- (a) the Registrar shall nominate one appraiser and the owner of the goods or other property distrained upon shall nominate the other appraiser, and if the owner fails to nominate an appraiser within 24 hours after notice given to him or her by the Registrar for that purpose then the Registrar shall nominate such other appraiser;
- (b) the appraisers so nominated shall be sworn by the Registrar to make a true and faithful appraisement, and such appraisers shall make their appraisement in writing on or before a day to be named by the Registrar, and shall sign such appraisement in triplicate and deliver the same to the Registrar, and the Registrar shall deliver one of such appraisements to the owner of the goods or other property distrained upon, and shall deliver one copy thereof to the bailiff who distrained, and shall retain the third copy, and in the event of the appraisers or any of them refusing or neglecting to be sworn or to make such appraisement the Registrar shall cause the appraisement to be made as and in such manner as to him or her may seem most expedient.

Bailiff to Prepare Account of Proceeds of Sale.

10. An account of the proceeds of every sale made pursuant to the Act and of every fee charged and expense incidental thereto shall be prepared by the bailiff levying the distress and conducting the sale thereof and shall be submitted to the Registrar to be checked and certified by him or her, if correct, and when so certified two copies of the account as certified by the Registrar shall be prepared by the bailiff and signed by him or her, and one of the copies shall be lodged with the Registrar and

the other copy delivered to the owner of the distress, and the bailiff shall only be entitled to deduct from the gross proceeds of any sale the amount of the account as certified by the Registrar.

SCHEDULE TO THE RULES

CERTIFICATE OF AUTHORITY TO ACT AS BAILIFF

(Regulation 3(1))

FORM A.

State of Saint Christopher and Nevis

In the matter of the Recovery of Rent Act.

This is to certify that (name of person to whom certificate granted) is hereby authorised to act as a general bailiff to levy any distress pursuant to the provisions of the Recovery of Rent Act.

Dated this day of, 20

Registrar

(Regulation 3(1))

FORM B.

State of Saint Christopher and Nevis

In the matter of the Recovery of Rent Act.

This is to certify that (.....) is hereby authorised to act as bailiff pursuant to the provisions of the Recovery of Rent Act to levy (set forth the particular distress or distresses in respect of which the bailiff is authorized to act.)

Dated this day of, 20

Registrar

FEES CHARGED AND EXPENSES INCIDENTAL TO DISTRESSES.

(Regulation 7(1))

	\$ c
1. Fee payable to the Registrar for any general certificate	1.20
2. Fee payable to the Registrar for any particular certificate.....	.24
3. Fee payable to the bailiff for levying any distress.....	.96
4. Fee payable to the bailiff for catalogues, sales and commission and delivery of the goods or other property — 5% on the net proceeds of the sale	
5. Fee payable to the man in possession per day36
6. Fee payable to each of the appraisers—2½% on the value of the goods or other property appraised.....	
7. All expenses of advertisements, if any such, the sum paid therefor, not exceeding.....	1.92
