

# *The Distress Act*

*being*

Chapter 53 of *The Revised Statutes of Saskatchewan, 1920*  
(Assented to November 10, 1920).

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## FIRST SCHEDULE

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## CHAPTER 53

### An Act respecting Distress and Extrajudicial Seizure

#### SHORT TITLE

##### Short title

**1** This Act may be cited as *The Distress Act*.

1918—19, c.25, s.1; R.S.S. 1920, c.53, s.1.

##### Cost of distress

**2** No person making a distress for rent, and no person employed in making the distress or doing any act in the course of the distress or for carrying same into effect, shall levy, take or receive any costs in respect of the distress other than such as are set forth in the appropriate part of the first schedule hereto.

1918—19, c.25, s.2; R.S.S. 1920, c.53, s.2.

##### Costs of extrajudicial seizures

**3** No person making seizure under the authority of a chattel mortgage, lien note or other extrajudicial process, and no person employed in making seizure or doing any act in the course of the seizure or for carrying the same into effect shall levy, take or receive any costs in respect of the seizure other than such as are set forth in the second schedule hereto.

1918—19, c.25, s.3; R.S.S. 1920, c.53, s.3.

##### Work must be done

**4** No person shall make a charge for anything mentioned in either of such schedules unless it has been actually done.

1918—19, c.25, s.4; R.S.S. 1920, c.53, s.4.

##### Penalty

**5** If any one offends against any of the provisions of the preceding sections, the person aggrieved thereby may, by notice of motion, summon the offender before the judge of the district court for the judicial district where the offence was committed, sitting in chambers, and the said judge may order the party making the distress or seizure to pay to the person aggrieved a sum not exceeding treble the amount of the money taken contrary to the provisions of this Act, together with the costs of the proceedings.

1918—19, c.25, s.5; R.S.S. 1920, c.53, s.5.

**Who makes seizure**

**6(1)** No chattels covered by a chattel mortgage shall be seized or sold except by the sheriff of the judicial district within which such chattels are situated or some other person duly authorised by him for the purpose.

**Indemnity**

**(2)** The sheriff or person making such seizure may before doing so require:

- (a) to be indemnified as to damages and costs in such amount as may be reasonable under the circumstances; and
- (b) that the creditor shall advance a sufficient sum to cover all the fees and disbursements shown in the second schedule to this Act save poundage.

1918—19, c.25, s.6; R.S.S. 1920, c.53, s.6.

**Mortgagee's right to distrain**

**7** The right of a mortgagee of land or his assigns to distrain for interest in arrear or principal due upon a mortgage shall, notwithstanding anything stated to the contrary in the mortgage or in any agreement relating to the same, be limited to the goods and chattels of the mortgagor or his assigns, and to such of them as are not exempt from seizure under execution.

1918—19, c.25, s.7; R.S.S. 1920, c.53, s.7.

**Notice of sale**

**8** Goods distrained for such interest or principal shall not be sold except after such notice as is required to be given by a landlord who sells goods distrained for rent.

1918—19, c.25, s.8; R.S.S. 1920, c.53, s.8.

**Alteration of fees**

**9** The Lieutenant Governor in Council may alter and amend the schedule of fees to this Act from time to time as he may see fit.

1918—19, c.25, s.9; R.S.S. 1920, c.53, s.9.

## DISTRESS FOR RENT

c. 53

## FIRST SCHEDULE

*(Section 2)*

## PART I

COSTS ON DISTRESS WHERE SUM DEMANDED AND DUE  
DOES NOT EXCEED \$100

- |  |        |
|--|--------|
| 1. Levying distress .....  | \$1.00 |
| 2. One man keeping possession, per day .....   | 3.00   |
| 3. If any printed advertisement, not to exceed in all .....  | 3.00   |
| 4. Catalogues, sale and commission, and delivery of<br>goods—five cents on the dollar on the net<br>proceeds of sale.                            |        |
| 5. Where the amount due is satisfied in whole or in<br>part, after seizure and before sale, three cents<br>in the dollar on the amount realised. |        |

## PART II

## COSTS ON DISTRESS WHERE SUM DEMANDED AND DUE EXCEEDS \$100

- |  |        |
|--|--------|
| 1. Levying distress .....  | \$1.50 |
| 2. One man keeping possession, per day .....   | 3.00   |
| 3. All reasonable and necessary disbursements for<br>advertising.  |        |
| 4. The actual expenses reasonably incurred in<br>removing and keeping the goods distrained or<br>part thereof when such removal is necessary.      |        |
| 5. Catalogues, sale and commission and delivery of<br>goods, three cents in the dollar.  |        |
| 6. Where the amount due is satisfied in whole or in<br>part after seizure and before sale, three cents<br>in the dollar on the amount so realised. |        |
| 7. Mileage in going to seize, 15 cents per mile one way.   |        |

## SECOND SCHEDULE

*(Section 3)*

## COSTS ON SEIZURE UNDER CHATTEL MORTGAGE

1. Receiving, entering and return .....	\$ .50
2. Perusal of chattel mortgage .....	.50
3. Warrant to bailiff .....	.50
4. Seizure .....	1.00
5. Bond from creditor, each .....	.50
6. Bond from debtor, each .....	1.00
7. Possession fee .....	2.50
8. Keeping possession, appraisement, advertising and sale of goods, actual expenses and disbursements.	
9. For mileage, every mile necessarily travelled and sworn to from the place where the warrant is received or the sheriff's office (whichever is nearest), to the place of execution in making seizure or sale of the goods and return, per mile .....	.10
10. Poundage, when the sum realised does not exceed \$400, two and one-half per cent; when the sum realised is over \$400, two and one-half per cent on \$400, and one and one-quarter per cent, for the balance.	
11. Postage.....	.25

*Note.*—Should the sheriff delegate his power to some one other than his own officer, the sheriff shall be entitled to the fees set out in items 1, 2, 3 and 5 of this schedule.