

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

EXPLANATORY NOTES

PART 3: ENFORCEMENT BY TAKING CONTROL OF GOODS

Commentary on Sections: Part 3

Section 71: Abolition of common law right

350. This section abolishes the common law right to distrain for arrears of rent. Statutory repeals are dealt with in Schedule 14 and Part 4 of Schedule 22. Taken together, these provisions will sweep away the existing law on distress for rent.
351. Distress for rent is a summary remedy which enables landlords to recover rent arrears, without going to court, by taking goods from the demised premises and either holding them until the arrears are paid or selling them. At common law, the right of distress for rent arises automatically by virtue of the landlord and tenant relationship. So the remedy is almost always available to the landlord of premises, whether residential or commercial premises, when rent is in arrears. Distress for rent is an ancient common law remedy which, over time, has been extended and modified by statute.
352. The right to distrain has applied to different kinds of rent, including rentcharges. This section and the statutory repeals will abolish distress for all forms of rent (see, for example, the repeal of section 121(1) of the Law of Property Act 1925, which confers statutory power to distrain for a rentcharge).