

## **Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended)**

- 14.—(1) Where a liability order has been made, the authority which applied for the order may levy the appropriate amount by distress and sale of the goods of the debtor against whom the order was made.
- (1A) Without prejudice to paragraph (8) below, no person making a distress shall seize any goods of the debtor of the following descriptions—
- (a) such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him in his employment, business or vocation;
  - (b) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the debtor and his family.
- (2) The appropriate amount for the purposes of paragraph (1) is the aggregate of—
- (a) an amount equal to any outstanding sum which is or forms part of the amount in respect of which the liability order was made, and
  - (b) a sum determined in accordance with Schedule 5 in respect of charges connected with the distress.
- (3) If, before any goods are seized, the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount and the levy shall not be proceeded with.
- (4) Where an authority has seized goods of the debtor in pursuance of the distress, but before sale of those goods the appropriate amount (including charges arising up to the time of the payment or tender) is paid or tendered to the authority, the authority shall accept the amount, the sale shall not be proceeded with and the goods shall be made available for collection by the debtor.
- (5) The person levying distress on behalf of an authority shall carry with him the written authorisation of the authority, which he shall show to the debtor if so requested; and he shall hand to the debtor or leave at the premises where the distress is levied a copy of this regulation and Schedule 5 and a memorandum setting out the appropriate amount, and shall hand to the debtor a copy of any close or walking possession agreement entered into.
- (6) A distress may be made anywhere in England and Wales.
- (7) A distress shall not be deemed unlawful on account of any defect or want of form in the liability order, and no person making a distress shall be deemed a trespasser on that account; and no person making a distress shall be deemed a trespasser from the beginning on account of any subsequent irregularity in making the distress, but a person sustaining special damage by reason of the subsequent irregularity may recover full satisfaction for the special damage (and no more) by proceedings in trespass or otherwise.
- (8) The provisions of this regulation shall not affect the operation of any enactment which protects goods of any class from distress.
- (9) Nothing in the Distress (Costs) Act 1817, as extended by the Distress (Costs) Act 1827, (which makes provision as to the costs and expenses of the levying of certain distresses) shall apply to a distress under this regulation.

SCHEDULE 3 (NON-DOMESTIC RATES)–  
CHARGES CONNECTED WITH DISTRESS

1. The sum in respect of charges connected with the distress which may be aggregated under regulation 14(2) shall be as set out in the following Table—

(1)	(2)
Matter connected with distress	Charge
<p><b>A</b> For making a visit to premises with a view to levying distress (where no levy is made)—</p> <p>(i) where the visit is the first or only such visit:</p>	£24.50.
<p>(ii) where the visit is the second such visit:</p>	£18.00.
<p><b>B</b> For levying distress:</p>	The lesser of— (i) the amount of the costs and fees reasonably incurred; and (ii) the relevant amount calculated under paragraph 2(1) with respect to the levy.
<p><b>C</b> For one attendance with a vehicle with a view to the removal of goods (where, following the levy, goods are not removed):</p>	Reasonable costs and fees incurred.
<p><b>D</b> For the removal and storage of goods for the purposes of sale:</p>	Reasonable costs and fees incurred.
<p><b>E</b> For the possession of goods as described in paragraph 2(2)—</p> <p>(i) for close possession (the person in possession to provide his own board):</p>	£15 per day.
<p>(ii) for walking possession:</p>	£12.
<p><b>F</b> For appraisalment of an item distrained, at the request in writing of the debtor:</p>	Reasonable fees and expenses of the broker appraising.
<p><b>G</b> For other expenses of, and commission on, a sale by auction—</p> <p>(i) where the sale is held on the auctioneer's premises:</p>	The auctioneer's commission fee and out-of-pocket expenses (but not exceeding in aggregate 15 per cent. of the sum realised), together with reasonable costs and fees incurred in respect of advertising.
<p>(ii) where the sale is held on the debtor's premises:</p>	The auctioneer's commission fee (but not exceeding 7½ per cent. of the sum realised), together with the auctioneer's out-of-pocket expenses and reasonable costs and fees incurred in respect of advertising.
<p><b>H</b> Where no sale takes place by reason of payment or tender in the circumstances referred to in regulation 14(4):</p>	Either - (i) £24.50, or (ii) the actual costs incurred, to a maximum of 5 per cent. of the amount in respect of which the liability order was made, -whichever is the greater.

**2.—**(1) In head B of the Table to paragraph 1, "the relevant amount" with respect to a levy means—

(a) where the sum due at the time of the levy does not exceed £100, £24.50;

(b) where the sum due at the time of the levy exceeds £100, 24.50 per cent. on the first £100 of the sum due, 4 per cent. on the next £400, 2½ per cent. on the next £1,500, 1 per cent. on the next £8,000 and ¼ per cent. on any additional sum;

and the sum due at any time for these purposes means so much of the amount in respect of which the liability order concerned was made as is outstanding at the time.

(2) An authority takes close or walking possession of goods for the purposes of head E of the Table to paragraph 1 if it takes such possession in pursuance of an agreement—

(a) to which the debtor is a signatory;

(b) which is made at the time that the distress is levied; and

(c) (without prejudice to such other terms as may be agreed) which is expressed to the effect that, in consideration of the authority not immediately removing the goods distrained upon from the premises occupied by the debtor and delaying its sale of the goods, the authority may remove and sell the goods after a later specified date if the debtor has not by then paid the amount distrained for (including charges under this Schedule),

and an authority takes close possession of goods on any day for those purposes if during the greater part of the day a person is left on the premises in physical possession of the goods on behalf of the authority under such an agreement.

**2A.** No charge shall be payable under head F of the Table to paragraph 1 in respect of the appraisalment of an item unless the debtor has been advised of the charge, and the manner of its calculation, before the appraisalment is made.

**3.—**(1) Where the calculation under this Schedule of a percentage of a sum results in an amount containing a fraction of a pound, that fraction shall be reckoned as a whole pound.

(2) In the case of dispute as to any charge under this Schedule (other than a charge of a prescribed amount), the debtor or the authority may apply to the district judge of the county court for the district in which the distress is or is intended to be levied for the amount of the charge to be taxed.

(3) On any such application, the district judge may give such directions as to the costs of the detailed assessment as he thinks fit; and any such costs directed to be paid by the debtor to the billing authority shall be added to the sum which may be aggregated under regulation 14(2).

(4) References in the Table to paragraph 1 to costs, fees and expenses include references to amounts payable by way of value added tax with respect to the supply of goods or services to which the costs, fees and expenses relate.