

Debt collection: (1) the law relating to Sheriffs

In October 1988, the Commission published its Report on [Debt Collection: \(1\) the law relating to Sheriffs \(LRC 27-1988\)](#) following a March 1987 request from the Attorney General.

The law relating to sheriffs had remained virtually unaltered for some sixty years and had been identified by the Commission on taxation in their Fifth Report as giving rise to difficulty.

The Commission makes 34 recommendations in its Report including:

1. The present responsibilities of County Registrars in the enforcement of judgments in civil cases should be ended and the sheriff system in Dublin and Cork extended to the entire country.
2. The same rules governing charges by sheriffs should obtain for all debts which are enforced.
3. Sheriffs should be enabled to obtain relief against forfeiture in respect of leases of licensed premises, thus avoiding the loss of the licence.
4. The present law should be amended so as to except from seizure under an execution order such articles of clothing, household furniture, bedding, tools or equipment of this trade or occupation or other like necessities for the judgment debtor, his spouse, children and dependant relatives residing with him as he may select not exceeding in value £500.
5. Section 12 of the *Enforcement of Court Orders Act 1926* should be amended so as to make clear that the protection afforded to a sheriff extends to court messengers or other bailiffs employed by the sheriff for the purposes of an execution.
6. An action for damages should lie against any person who makes a fraudulent or vexatious claim to goods which are, or which but for the claim, would have been seized in execution of the judgment. Such conduct should also be made a criminal offence.
7. A life policy in which a judgement debtor has a sole beneficial interest should be capable of being seized under an execution order and the assurer required, upon a request, to pay the proceeds over to the sheriff for the benefit of the judgement creditor.
8. The provisions on the remuneration of sheriffs should be re-stated in legislative form.
9. It should be provided that the solicitor for the judgement creditor should not be personally liable to the sheriff for his fees

Draft Legislation in Report

Draft legislative provisions are included in the Report.

Information on Implementation

Recommendations of the Commission were implemented in part by the *Land and Conveyancing Law Reform Act 2009, s.130* and incorporated into our Report on the [Consolidation and Reform of the Courts Acts \(LRC 97-2010\)](#).