

# CHAPTER 22 AUCTIONEERS ACT

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• Act • Subsidiary Legislation •

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## ACT

Chapter No.22 of 1959

### Amended by

Act No. 6 of 1962

Act No. 10 of 1990

Act No. 52 of 1991

### ARRANGEMENT OF SECTIONS

- |                 |   |
|-----------------|---|
| 1.              | Short title.  |
| 2.              | Interpretation.   |
| 3.              | Licence necessary.  |
| 4.              | Duration and conditions of licence.                           |
| 5.              | Licence duty.   |
| 6.              | Refusal and cancellation of licence.                          |
| 7.              | List of licensed auctioneers to be published.                 |
| 8.              | Penalty for selling without licence.                          |
| 9.              | Keeping of accounts by auctioneer.                            |
| 10.             | Remuneration payable to auctioneers.                          |
| 11.             | Power to grant permission to sell at auction without licence. |
| 12.             | Exceptions.   |
| 13.             | Recovery of penalties.  |
| First Schedule  | Form of Licence to Practise as an Auctioneer                  |
| Second Schedule | Form of Sales Book  |
| Third Schedule  | Auctioneers' Commission and Fees                              |

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## CHAPTER 22 AUCTIONEERS ACT

### An Act to provide for the licensing and control of auctioneers.

[Cap. 22 of 1959 amended by Act No. 6 of 1962, Act No. 10 of 1990, Act No. 52 of 1991.]

[1st July, 1951.]

#### 1. Short title

This Act may be cited as the Auctioneers Act.

#### 2. Interpretation

A person—

- (a) who exercises or carries on the trade or business of an auctioneer;
- (b) who acts in such capacity at any sale; or
- (c) who sells or offers for sale any goods or chattels, lands, tenements or hereditaments, or any interest therein, at any sale where any person becomes the purchaser of the same by competition and being the highest bidder, either by being the single bidder, or by increasing upon the

biddings made by others or decreasing on sums named by the auctioneer or person acting as auctioneer, or other person at such sale, or by any other mode of sale by competition,

shall be an auctioneer within the meaning of this Act.

### **3. Licence necessary**

(1) No person shall, except as hereinafter provided, carry on the business of an auctioneer unless he or she has obtained from the Permanent Secretary (Finance) a licence in the form in the First Schedule:

Provided that no licence shall be issued to any person until he or she gives to the satisfaction of the Permanent Secretary (Finance) good and sufficient security in the sum of fifteen hundred dollars for the faithful performance of the duties of his or her calling or business and for the purpose of securing the payment of any fines, penalties, judgements, damages or costs which may be imposed upon or recovered against him or her as auctioneer.

(2) No licence shall be issued under this Act to a corporation, sole or aggregate, or to a partnership.

### **4. Duration and conditions of licence**

(1) A licence under this Act may be issued either in respect of any half-year ending on the thirtieth day of June or thirty-first day of December, or in respect of any year ending on the thirty-first day of December.

(2) Every licence shall continue in force from the date on which it is granted until the end of the half-year or year in respect of which it is granted, and shall be subject to such conditions as are therein specified.

### **5. Licence duty**

(1) The amount payable to the Permanent Secretary (Finance) for a licence under this Act shall be twenty-five dollars for a half-yearly licence or fifty dollars for a yearly licence.

(2) Every such amount shall be paid into and form part of the Consolidated Fund.

### **6. Refusal and cancellation of licence**

(1) Notwithstanding anything in the preceding sections contained, the Permanent Secretary (Finance) may refuse any application for an auctioneer's licence or to renew any such licence, and may cancel the licence of any auctioneer who has—

- (a) been convicted of any offence under this Act;
- (b) failed to account for or pay over any monies or property which have come into his or her possession or control as such auctioneer;
- (c) parted with any property entrusted to him or her for sale without obtaining payment for the same and has failed to make good to his or her employer the value thereof; or
- (d) otherwise misconducted himself or herself as an auctioneer.

(2) A refusal to issue or to renew, or the cancellation of, an auctioneer's licence, shall be notified to the person affected thereby under the hand of the Permanent Secretary (Finance).

(3) A person aggrieved by any action of the Permanent Secretary (Finance) under this section may appeal to the Governor-General whose decision shall be final.

### **7. List of licensed auctioneers to be published**

The Permanent Secretary (Finance) shall, at the beginning of every month, cause to be published in the *Gazette* and in at least one local newspaper, a list of the persons to whom licences have been granted by him or her during the preceding month, and if at any time he or she cancels a licence he or she shall publish in like manner the name of the person whose licence shall have been so cancelled.

## **8. Penalty for selling without licence**

A person who carries on the business of an auctioneer without being duly licensed shall be guilty of an offence and liable—

- (a) for a first offence, to a fine of five hundred dollars; and
- (b) for a second or subsequent offence, to a fine of three thousand dollars.

## **9. Keeping of accounts by auctioneer**

(1) Every auctioneer shall keep a regular and correct account of all property sold by him or her at auction, such account to be written in a book to be kept for that purpose, in the form contained in the Second Schedule, and every such account shall be open to the inspection of every person interested:

Provided that it shall be a sufficient compliance with the provisions of this subsection if an entry is made in the book of the name of the person to whom the property sold belongs, together with a reference to some other book wherein is kept an account containing the particulars mentioned in the form aforesaid.

(2) A person who fails to keep such account in the manner hereinbefore mentioned, or hinders or prevents any person interested from inspecting any such book, shall be guilty of an offence and liable to a fine of five hundred dollars.

## **10. Remuneration payable to auctioneers**

(1) It shall be competent for an auctioneer to make an agreement with a client, and for a client to make an agreement with an auctioneer, for the remuneration of the auctioneer to such amount and in such manner as the auctioneer and the client think fit, and it shall be competent for the auctioneer to accept and for the client to give remuneration accordingly. Any such agreement shall be in writing and signed by the person to be bound thereby or by his or her agent in that behalf.

(2) In the absence of any such agreement as is mentioned in subsection (1), on a sale or attempted sale at auction of the properties referred to in the Third Schedule an auctioneer is entitled in respect of such sale or attempted sale, to demand and to receive the relevant commission or fee specified in that Schedule.

(3) Subject to the provisions of subsection (1), any auctioneer who demands, receives or retains any commission or fee in excess of the commission or fee hereby chargeable shall be guilty of an offence and liable to a fine of five hundred dollars.

## **11. Power to grant permission to sell at auction without licence**

Notwithstanding the provisions of this Act, the Minister of Finance may, from time to time, grant permission to a public officer to sell at auction any property on account of the Government or of any Ministry or Department.

## **12. Exceptions**

This Act does not apply to auction sales—

- (a) by the Registrar, bailiff or any other officer of a court on legal process in the exercise of any powers conferred on them by law;
- (b) by any police officer or other public officer in any Ministry or Department where such sales are held under the provisions of any written law or departmental regulation.

**13. Recovery of penalties**

All penalties under this Act may be recovered on summary conviction in the name of the Permanent Secretary (Finance) or some person authorised by him or her in writing either generally or in a special case.

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**First Schedule**  
AUCTIONEERS ACT

*Form of Licence to Practise as an Auctioneer*

[Section 3(1).]

I hereby authorise ..... of ..... to carry on trade or business as an auctioneer. This licence expires on the ..... (*date*) and is issued subject to the conditions in section 3. Any breach of the said conditions involves the cancellation of the licence.

Dated: etc.

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*Permanent Secretary (Finance)*

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**Second Schedule**  
AUCTIONEERS ACT

*Form of Sales Book*

[Section 9(1).]

Sale of property belonging to .....

Address .....

<i>Date</i>	<i>Specification of Articles</i>	<i>Purchaser</i>	<i>Securities</i>	<i>Amount</i>	<i>Terms of Payment</i>

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**Third Schedule**  
AUCTIONEERS ACT

*Auctioneers' Commission and Fees*

[Section 10.]

PART I

*Where a Sale is Effected*

Commission in addition to all out-of pocket expenses and storage fees, if any, calculated on the purchase price at the under-mentioned rates shall be chargeable—

ten per cent to be fixed by agreement between the auctioneer and his or her employer before any sale is attempted by the auctioneer.

On a sale of realty, equities of redemption, or chattels real, at the rates following—

Not exceeding \$500 .....	5 per cent.
Exceeding \$500 and not exceeding \$2,500 .....	\$25.00
Exceeding \$2,500 and not exceeding \$5,000 .....	1 per cent.
Exceeding \$5,000 and not exceeding \$25,000 .....	¾ per cent; provided that the commission shall in no case be less than \$55.00
Exceeding \$25,000 and not exceeding \$50,000 .....	½ per cent; provided that the commission shall in no case be less than \$190.00
Exceeding \$50,000 .....	¼ per cent; provided that the commission shall in no case be less than \$250.00

If the property be sold by private contract, with the authority of the vendor, either before or at the auction, the commission is payable; or if the property be sold by private contract after the auction, provided the authority to sell is continued after the auction, the commission is payable.

PART II

*Where a Sale is not Effected*

The following fee in addition to all out-of-pocket expenses and storage fees, if any, shall be chargeable in respect of every description of property—

ten per cent of the fee otherwise payable under Part I of this Schedule.

On a mortgagee's sale where no reserve price is fixed, the reserve price shall be deemed to be the amount secured by the mortgage. In other cases where no reserve price is fixed, the reserve price shall be deemed to be the value of the property as agreed between the person offering the property for sale and the auctioneer.

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**CHAPTER 22  
AUCTIONEERS ACT**

**SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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