

AUCTIONEERS' LICENSING (AMENDMENT) ACT.

Act No. 44, 1934.

George V.
No. 44, 1934.

An Act to enable persons resident in the Federal Territory for the Seat of Government to obtain general auctioneers' licenses in New South Wales; to provide for the issue of primary products auctioneers' licenses within the Metropolitan Police District; for these and certain other purposes to amend the Auctioneers' Licensing Act, 1898, and certain other Acts; and for purposes connected therewith. [Assented to, 18th December, 1934.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. (1) This Act may be cited as the "Auctioneers' Licensing (Amendment) Act, 1934," and shall be read and construed with the Auctioneers' Licensing Act, 1898, as amended by subsequent Acts.

(2) The Auctioneers' Licensing Act, 1898, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Auctioneers' Licensing Act, 1898-1934.

(4) This Act shall commence on the first day of January, one thousand nine hundred and thirty-five.

2.

2. The Principal Act is amended by inserting at the end of section six the following new subsection:—

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Amendment of Act No. 24, 1898, s. 6.
(Persons resident in Federal Territory.)

New subsection.

(3) The power to grant licenses to persons resident in a reciprocating State shall also extend to the granting of licenses to persons resident in the Federal Territory for the Seat of Government.

For the purpose of giving effect to this provision the expression "State of the Commonwealth of Australia (other than New South Wales)" in subsection one of this section and the expression "State of the Commonwealth of Australia" in section seven shall be deemed to include the said Territory, and any ordinance for the time being in force in the said Territory relating to the licensing of auctioneers shall be deemed to be an Act in force in the said Territory.

3. The Principal Act is further amended by omitting section eighteen and by inserting in lieu thereof the following section:—

Further amendment of Act No. 24, 1898.

18. No auctioneer shall attempt to sell, offer for sale or sell by way of public auction any land, goods or effects except wool not being on the skin, after sunset or before sunrise of any day throughout the year and every such auctioneer who offends against this section shall for every such offence forfeit and pay a penalty of not less than two pounds nor more than fifty pounds.

No auction sales after sunset (sales of wool excepted).

4. The Principal Act is further amended—

Further amendment of Act No. 24, 1898.

(a) by inserting at the end of subsection one of section four the following word and new paragraph:—

Sec. 4.
(Auctioneer's license.)

“ or

(c) a primary products license which shall be in force only at the market within the metropolitan police district which is specified in the license”;

(b)

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- (b) by inserting at the end of subsection two of the same section the words "or unless he has taken out a primary products license and acts as an auctioneer only for the sale of firewood, coal, coke, fish or any products within the meaning of the Marketing of Primary Products Act, 1927-1931, as amended by subsequent Acts, at the market specified in his license;
- (c) by inserting at the end of subsection three of the same section the words "and, in the case of a primary products license, the market at which the license is in force";
- (d) by inserting at the end of subsection five of the same section the words "and an annual fee of two pounds shall be paid for each primary products license."

Further amend-
ment of
Act No. 24,
1898, s. 5.
(Issue of
Licenses.)

5. The Principal Act is further amended—

- (a) by inserting at the end of subsection four of section five the words "If the officer objects to the grant of the application, he shall include in his report a statement setting out the nature of the objection proposed to be made";
- (b) by omitting subsections five, six, seven, eight, nine and ten of the same section, and by inserting in lieu thereof the following subsections:—
 - (5) Where such officer does not object to the grant of the application, the clerk with whom the application was lodged shall, on payment to him of the annual fee, issue the license.
 - (6) Where such officer objects to the grant of the application—
 - (a) the clerk of the court shall notify the applicant that the grant of his application will be objected to, and shall set out shortly in the notice the nature of the objection proposed to be made;
 - (b) the application shall be heard and determined by the court, which for that purpose shall be constituted by a stipendiary or police magistrate or two or more justices;

(c)

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(c) such hearing shall not take place until after the expiration of seven days after the lodging of the application;

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(d) the hearing of the application shall be in open court and the consideration of the application shall be deemed to be a judicial proceeding;

(e) where the court grants an application for a license or renewal of a license, the clerk of the court shall, on payment to him of the annual fee, issue the license.

(7) A license or renewal of a license shall not be granted to an applicant who—

(a) is the holder of a license under the Pawnbrokers Act, 1902; or

(b) is of bad or doubtful character.

6. The Principal Act is further amended by omitting section two, and by inserting in lieu thereof the following sections:—

Further amendment of Act No. 24, 1898. Secs. 2, 2A.

2. In this Act, unless the context or subject-matter otherwise indicates or requires:—

Definition. cf. N.Z. Act 1903, No. 10, s. 2.

“ Auction sale,” “ sale by auction,” “ sell by way of auction,” and expressions of a similar character mean the selling of any estate, goods, or effects whatsoever by outcry, by what is known as Dutch auction, by knocking-down of hammer, candle, lot, parcel, instrument, machine, or by any other mode whereby the highest, the lowest, or any bidder is the purchaser; or whereby the first person who claims the property submitted for sale at a certain price named by the person acting as auctioneer is the purchaser; or whereby there is a competition for the purchase of any estate, goods, or effects whatsoever in any way commonly known and understood to be by way of auction, and shall be deemed to include the selling by outcry

Vict. Act No. 2615, 1915, s. 3.

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outery or in any other manner before mentioned in any public place or in any room, or mart, or place to which the public are admitted or have access, whether or not the sale has been advertised to take place.

“ Auctioneer ” means any person who exercises the trade or business of an auctioneer or seller by commission at any auction sale or who sells or attempts to sell or offer for sale or resale any estate, goods or effects by way of auction.

Act not to apply to sale at bazaar.

2A. This Act shall not apply to a sale by auction of any goods, wares, or merchandise at a bazaar or fancy fair held for raising funds in aid of any eleemosynary or charitable institution where the gross proceeds of the sale are to be devoted to such funds.

Further amendment of Act No. 24, 1898, Sec. 3.

7. The Principal Act is further amended—

(a) by omitting section three and by inserting in lieu thereof the following new section:—

3. No person shall act as an auctioneer unless he is the holder of an auctioneer's license.

Auctioneers to be licensed.

Sec. 10.
(Misrepresentation.)

(b) by inserting in section ten before the word “ composition ” the word “ value ”;

Sec. 12.
(Bidding by seller.)

(c) by inserting in section twelve before the words “ to employ ” the words “ for the seller or the auctioneer ”;

Sec. 19.
(Penalty for selling without license.)

(d) by omitting from section nineteen the words “ sells or offers to sell by way of auction as aforesaid ” and by inserting in lieu thereof the words “ acts as an auctioneer.”

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