



Isle of Man

Ellan Vannin

AT 26 of 1985

AUCTIONS ACT 1985



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Received Royal Assent: 12 August 1985
Passed: 15 October 1985
Commenced: 15 November 1985

AN ACT to amend the law relating to auctions, mock auctions, bidding agreements; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

PART I – MOCK AUCTIONS

1 Penalties for promoting or conducting mock auctions

[P1961/47/1]

- (1) Any person who promotes or conducts, or assists in conducting a mock auction shall be guilty of an offence.
- (2) Subject to the following provisions of this section, for the purpose of this Part a sale by auction shall be taken to be a mock auction if, but only if, during the course of the sale —
 - (a) any lot is sold to a person bidding for it, and either it is sold to him at a price lower than the amount of his highest bid for that lot, or part of the price at which it is sold to him is repaid or credited to him or is stated to be so repaid or credited, or
 - (b) the right to bid for any lot is restricted, or is stated to be restricted, to persons who have bought or agreed to buy one or more lots, or
 - (c) any thing is given away or offered as a gift.
- (3) A sale by auction shall not be taken to be a mock auction by virtue of subsection (2)(a), if it is proved that the reduction in price, or the repayment of credit, as the case may be —
 - (a) was on account of a defect discovered after the highest bid in question had been made, being a defect of which the person conducting the sale was unaware when that bid was made, or

- (b) was on account of damage sustained after that bid was made.

2 Interpretation of Part I

[P1961/47/3]

- (1) In this Part “**stated**”, in relation to a sale by auction, means stated by or on behalf of the person conducting the sale, by an announcement made to the persons for the time being present at the sale.
- (2) For the purposes of this Part —
- (a) any bid stated to have been made at a sale by auction shall be conclusively presumed to have been made, and to have been a bid of the amount stated; and any reference in this Part to the sale of a lot to a person who has made a bid for it includes a reference to a purported sale thereof to a person stated to have bid for it, whether that person exists or not;
- (b) anything done in or about the place where a sale by auction is held, if done in connection with the sale, shall be taken to be done during the course of the sale, whether it is done at the time when any lot is being sold or offered for sale by auction or before or after any such time.

PART II – BIDDING AGREEMENTS

3 Certain bidding agreements to be illegal

[P1927/12/1]

- (1) Subject to subsection (2), if any dealer agrees to give, or gives, or offers any gift or consideration to any other person as an inducement or reward for abstaining, or for having abstained, from bidding at a sale by auction either generally or for any particular lot, or if any person agrees to accept, or accepts, or attempts to obtain from any dealer any such gift or consideration as aforesaid, he shall be guilty of an offence.
- (2) Where it is proved that a dealer has, previously to a sale by auction, entered into an agreement in writing with one or more persons to purchase goods at the auction bona fide on a joint account and has, before the goods were purchased at the auction deposited a copy of the agreement with the auctioneer, such an agreement shall not be treated as an agreement made in contravention of this section.

4 Rights of seller of goods by auction where agreement subsists that some person shall abstain from bidding for the goods

[P1969/56/3]

- (1) Where goods are purchased at a sale by auction by a person who has entered into an agreement with another or others that the other or the

others (or some of them) shall abstain from bidding for the goods (not being an agreement to purchase the goods bona fide on a joint account) and he or the other party, or one of the other parties, to the agreement is a dealer, the seller may avoid the contract under which the goods are purchased.

- (2) Where a contract is avoided by virtue of subsection (1), then, if the purchaser has obtained possession of the goods and restitution thereof is not made, the persons who were parties to the agreement that one or some of them should abstain from bidding for the goods the subject of the contract shall be jointly and severally liable to make good to the seller the loss (if any) he sustained by reason of the operation of the agreement.
- (3) Subsection (1) applies to a contract made after the commencement of this Act whether the agreement as to the abstention of a person or persons from bidding for the goods the subject of the contract was made before or after that commencement.

PART III – SALE OF LAND BY AUCTION

5 Rule respecting sale without reserve, etc

[P1867/48/5]

- (1) The conditions of a sale by auction of any land shall state —
 - (a) whether such land will be sold without reserve, or subject to a reserve price; and
 - (b) if there is a reserve price, whether a right to bid is reserved by or on behalf of the seller.
- (2) If subsection (1) is not complied with, the seller and the auctioneer shall each be guilty of an offence.
- (3) Where it is stated in such conditions that the land will be sold without reserve, or to that effect —
 - (a) the seller shall be guilty of an offence if —
 - (i) he bids at the sale; or
 - (ii) employs any person to bid on his behalf, whether or not that person bids at the sale, and
 - (b) the auctioneer shall be guilty of an offence if he knowingly takes any bidding from any such seller or any such person employed by the seller.

PART IV – MISCELLANEOUS AND SUPPLEMENTARY

6 Information to be exhibited

- (1) During the whole time of a sale by auction the auctioneer conducting such auction shall, unless exempted by regulations made by the Isle of Man Office of Fair Trading, exhibit the prescribed notice at the place at which such auction is being conducted in such manner as to be readily observed by the persons attending the auction.¹
- (2) In subsection (1) “prescribed notice” means a notice in such form and containing such information with respect to the auction and the auctioneer as may be prescribed by regulations made by the Isle of Man Office of Fair Trading.²
- (3) Regulations made under this section shall be laid before Tynwald.
- (4) Any auctioneer who fails to comply with subsection (1) shall be guilty of an offence.

7 Penalties

- (1) Any person guilty of an offence under section 1(1), 3(1), 5 or 10(2) shall be liable on summary conviction to imprisonment for a term of six months or to a fine of £5,000 or to both.
- (2) Any person guilty of an offence under section 6(4) shall be liable on summary conviction to a fine of £1,000.

8 Offences

- (1) A prosecution for an offence under this Act shall not be instituted without the consent of the Attorney General.
- (2) Notwithstanding section 11 of the *Petty Sessions and Summary Jurisdiction Act 1927*, a complaint relating to an offence under this Act may be tried by a court of summary jurisdiction if it is laid –
 - (a) at any time within 1 year after the commission of the offence; or
 - (b) within 3 months after the date on which evidence sufficient in the opinion of the Attorney General to justify the proceedings comes to his knowledge,whichever is the later.
- (3) For the purposes of subsection (2) a certificate of the Attorney General as to the date on which evidence sufficient in his opinion to justify proceedings came to his knowledge shall be conclusive evidence.

9 Offences by bodies corporate

[P1961/47/2]

Where an offence punishable under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10 Persons convicted not to attend or participate in auctions

[P1969/56/2]

- (1) On any conviction under this Act the court may order that the person so convicted or that person and any representative of him shall not (without leave of the court) for a period of not more than 3 years from the date of such conviction enter upon any premises where goods intended for sale by auction are on display or attend or participate in any way in any sale by auction.
- (2) In the event of a contravention of an order under this section, the person who contravenes it (and, if he is the representative of another, that other also) shall be guilty of an offence.
- (3) In any proceedings against a person in respect of a contravention of an order under this section consisting in the entry upon premises where goods intended for sale by auction were on display, it shall be a defence for him to prove that he did not know, and had no reason to suspect, that goods so intended were on display on the premises, and in any proceedings against a person in respect of a contravention of such an order consisting in his having done something as the representative of another, it shall be a defence for him to prove that he did not know, and had no reason to suspect that that other was the subject of such an order.
- (4) A person shall not be guilty of an offence under this section by reason only of his selling property by auction or causing it to be so sold.

11 Saving for other remedies

Subject to the provisions of section 3 of the *Criminal Law Act 1981* (which relates to offences under two or more enactments), nothing in this Act shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

12 Interpretation

In this Act —

“**dealer**” means a person who in the normal course of his business attends sales by auction for the purpose of purchasing goods with a view to reselling them;

“**sale by auction**” means any sale of land, property or animals at which the persons present or some of them, are invited to buy one or more lots by way of competitive bidding, and “**competitive bidding**” includes any mode of sale whereby prospective purchasers may be enabled to compete for the purchase of articles, whether by way of increasing bids or by the offer of articles to be bid for at successively decreasing prices or otherwise.

13 Short title and commencement

- (1) This Act may be cited as the Auctions Act 1985.
- (2) This Act shall come into operation one month after it has been passed.³

ENDNOTES**Table of Endnote References**

¹ Subs 1) amended by SD579/98.

² Subs (2) amended by SD579/98.

³ Effective 15 November 1985.