

Chapter 90.
Auctioneers Act 1952.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 90.

Auctioneers Act 1952.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Auctioneers Act 1952,

Being an Act to provide for the licensing of auctioneers.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**clerk**” means the Clerk of a Court;

“**Court**” means a District Court;

“**licence**” means a licence issued under Section 11;

“**the regulations**” means any regulations made under this Act;

“**sell by auction**” means sell property by outcry, knocking down of hammer, candle, lot, parcel, instrument, machine or other mode where—

(a) the highest or the lowest or any other bidder is the purchaser; or

(b) 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

(c) there is a competition for the purchase of property in any way commonly known and understood to be by way of auction;

“**this Act**” includes the regulations.

2. DELEGATION.

The Secretary for Finance, may by instrument, delegate to an officer all or any of his powers, functions and duties under this Act (except this power of delegation).

3. AUCTIONEERS TO BE LICENSED.

Subject to this Act, a person other than a licensee who sells or offers property for sale by auction is guilty of an offence.

Penalty: A fine of not less than K30.00 and not exceeding K100.00.

4. RIGHT TO SELL BY AUCTION.

A licensee may sell by auction in any part of the country.

5. NOTICE OF INTENTION TO APPLY FOR LICENCE.

On or before the last Tuesday in a month, a person who desires to obtain a licence may give the clerk for the province in which he resides notice in the prescribed form of his intention to apply for the licence.

6. LISTS OF APPLICANTS TO BE POSTED.

Until it is disposed of, the clerk shall cause a copy of the application made under Section 5 to be posted up, and to be kept posted up, in some conspicuous place at the court house or place at which the Court sits to hear the application.

7. CONSIDERATION OF APPLICATION.

Subject to Section 8, the Court shall consider and determine the application at a sitting to be held on the first Tuesday of the month following the giving of the notice.

8. ADJOURNMENTS.

The Court or, in the absence of the Court, the clerk may adjourn the consideration and determination of all or any of the applications before the Court to such day or days as the Court or the clerk, as the case may be, thinks fit, but so that no adjournments exceed in the aggregate one month from the day first appointed for the consideration of the applications.

9. HEARING TO BE IN OPEN COURT.

The hearing or adjourned hearing of an application shall be held in open court.

10. OBJECTIONS.

(1) At the hearing or adjourned hearing of an application for a licence, any person may object to the granting of the application.

(2) The Court shall inquire into any objection, and for that purpose may summon and examine on oath such witnesses as it thinks necessary.

11. DISCRETION OF COURT.

The Court may, in its discretion, grant an application for a licence to an applicant that it is satisfied is of good fame and character.

12. CERTIFICATE TO APPROVED APPLICANT.

Where a Court grants an application for a licence, the Magistrate shall issue to the applicant a certificate in the prescribed form authorizing the issue of a licence to the applicant.

13. ISSUE OF LICENCE.

(1) The Secretary for Finance shall—

(a) issue a licence in the prescribed form to a person who—

(i) within two months after the issue of the certificate under Section 12 lodges the certificate with him; and

(ii) pays the prescribed fee; and

(b) register that licence in his office.

(2) If a person to whom a certificate is issued under Section 12 fails to lodge the certificate and the prescribed fee with the Secretary for Finance as required by Subsection (1)(a), the certificate is null and void.

(3) Where a delegate of the Secretary for Finance issues a licence, he shall forward the name and address of the person to whom the licence has been issued to the Secretary for Finance within 14 days of the issue.

14. ISSUE OF LICENCE TO BE NOTIFIED IN NATIONAL GAZETTE.

The Secretary for Finance shall cause the name and address of the person to whom the licence has been issued to be published in the National Gazette.

15. DURATION OF LICENCE.

A licence remains in force from the date of its issue until 1 January in the following year.

16. FEE FOR LICENCE.

(1) Subject to Subsection (2), the fee for a licence is K50.00.

(2) If, at the date of its issue, a licence has less than 12 months to run, the fee payable is proportionate to the time that the licence has to run.

17. TEMPORARY LICENCE.

(1) On the written application of a licensee and on payment of the fee prescribed by Subsection (4), and if he is satisfied that the holder of the licence is

unable from illness or other good cause to act as an auctioneer, the Secretary for Finance may grant a temporary licence to a licensee for his clerk or deputy to sell by auction.

(2) Where a temporary licence is issued under Subsection (1), the licensee's clerk or deputy is authorized to act as an auctioneer on behalf of the licensee at the place and on the day specified in the temporary licence.

(3) A temporary licence shall be in the prescribed form.

(4) A fee of K2.00 shall be paid for each day for which a temporary licence is granted.

(5) A licensee shall not be granted more than six temporary licences in any year.

(6) A licensee is personally liable and responsible for all acts and defaults of a clerk or deputy acting on his behalf by virtue of a temporary licence in the same manner and to the same extent as he would be liable and responsible if he had himself done the act and made the default.

(7) A licence granted to an auctioneer is suspended during a day on which the temporary licence is in force.

18. APPLICATION.

Notwithstanding anything in this Act—

- (a) an officer of the National Court or any other court, without holding a licence, may sell by auction any property taken by him in execution by virtue of process issued from that court; and
- (b) an officer or a person duly authorized for the purpose by the Head of State, acting on advice, without holding a licence, may sell by auction leases of State land, or other property within the country belonging to the State or to an intestate estate.

19. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Office of Legislative Counsel, PNG