

Act No. 24, 1898.

An Act to consolidate the Acts relating to the Licensing of Auctioneers. [27th July, 1898.]

AUCTIONEERS'
LICENSING.
—

BE it enacted by the Queen'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:—

1. (1) This Act may be cited as the "Auctioneers' Licensing Act, 1898." Short title and repeals.

(2) The Acts mentioned in the First Schedule hereto are, to the extent therein mentioned, hereby repealed. First Schedule.

2. In this Act, unless the context or subject matter otherwise indicates or requires, "auctioneer" means any person who exercises the trade or business of an auctioneer or seller by commission at any sale of any estate, goods, or effects whatsoever, by outcry, knocking down of hammer, candle, lot, parcel, or any other mode of sale by auction, or whereby the highest bidder is deemed to be the purchaser, or who acts in the capacity of an auctioneer or seller by commission as aforesaid. Interpretation.
11 Vic. No. 16, s. 2.

3. No person shall deal in, sell, or put up to sale or resale any estate, goods, or effects whatsoever by public sale or by way of auction as aforesaid without having taken out an auctioneer's license. No person to act as auctioneer without taking out an auctioneer's license.
Ibid. s. 2.

4. (1) Every such license shall set forth the name and place of abode of the person taking out the same, and shall be either— Form of license.
Ibid. s. 2.

(a) a general license in the form contained in the Second Schedule hereto, which shall be in force for all parts of New South Wales, and for which the sum of fifteen pounds shall be paid; or

(b)

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Third Schedule

(b) a district license in the form contained in the Third Schedule hereto which shall be in force for the police district only for which the same is taken out, and for which the sum of two pounds shall be paid :

Provided that no person shall be allowed to act as auctioneer in the police district of Sydney who has not taken out a general license.

(2) All such auctioneers' licenses shall be in force until the first day of January next after the time the same were taken out, unless sooner forfeited, and no greater sum shall be payable upon such licenses than for the proportionate period of the year the same may have to run, calculating for the whole of the year at the respective rates hereinafter mentioned.

Manner of applying for license.
11 Vic. No. 16, s. 3.

5. Every person who is desirous of obtaining an auctioneer's license shall (in order that his character may be ascertained), on or before the first Tuesday in November in each year, deliver to the clerk or the person officiating as clerk of the petty sessions for the city, town, place, or police district within which such person resides, a notice in writing of his intention to apply for the same, which notice shall be in the form or to the effect of the form in the Fourth Schedule hereto.

Fourth Schedule.

Clerks of petty sessions to cause lists of applicants to be posted up.

Ibid. s. 4.

16 Vic. No. 21.

6. The clerk of every such petty sessions, or the person officiating as such, shall cause a list of the names and places of abode of all such applicants to be posted up on or before the third Tuesday in November in every year, in some conspicuous place inside and also outside every police office at which such petty sessions are held, and the same shall be kept so posted up until after the day of the annual licensing meeting hereinafter mentioned.

Clerks of petty sessions to cause previous notice of licensing meeting to be given.

11 Vic. No. 16, s. 5.

7. The clerk of petty sessions acting for each licensing district shall cause a notice of each annual licensing meeting to be inserted at least one month before the holding thereof in the Gazette, and also to be affixed to the door of the court-house in which the same is appointed to be holden, but no omission or irregularity in any such notice shall affect the authority vested in any annual licensing meeting held conformably in other respects to the provisions of this Act.

Annual licensing meeting.

Ibid. s. 6.

8. A general meeting (to be called the annual meeting for the licensing of auctioneers) of the justices for or usually residing in each police district of New South Wales in which petty sessions are held, shall be holden in their respective court-houses or usual places of meeting on the fourth Tuesday in November in every year for the special purpose of taking into consideration applications for such licenses as aforesaid, and any two justices shall be sufficient to constitute such meeting :

Provided always that whenever there are not two justices resident in any police district where such meeting is held, then one justice so resident shall be sufficient to constitute such meeting.

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9. The justices attending such meeting may adjourn the consideration of all or any of the applications before them from the day of such annual licensing meeting to such other day or days as the said justices shall from time to time agree upon :

Power to adjourn licensing meetings.
11 Vic. No. 16, s. 7.

Provided always that such adjournments do not in the whole exceed one month from the day appointed for the said annual licensing meeting.

10. Whenever at any such annual licensing meeting, or any adjournment thereof, two justices usually residing in such district are not present by one of the clock of that day at the court-house or other place appointed for the meeting, any one justice resident in such district being present may adjourn or further adjourn the said meeting for one week (any limitation hereinbefore prescribed to the contrary notwithstanding), and may give notice of such adjournment to all other justices resident in such district, and if at such adjourned meeting there are not present by one of the clock of the day fixed for the adjourned meeting two justices usually resident in such district one such justice may do all such acts as an annual licensing meeting is by this Act empowered to do.

In certain cases one justice vested with powers of an annual licensing meeting.
Ibid. s. 8.

11. Every such annual licensing meeting, and every adjournment thereof, shall be held in open court, and every consideration of any application thereat shall be deemed and taken to be a judicial proceeding, and it shall be the duty of the justices attending such meeting to refuse a license to any applicant of bad or doubtful character.

Annual licensing meetings to be held in open court.
Ibid. s. 9.

12. The justices assembled at and forming such annual licensing meetings may grant to such persons as are approved by such justices, or the majority of them, certificates authorising such licenses as aforesaid in the form in the Fifth Schedule hereto.

Certificates to be granted.
Ibid. s. 10.
16 Vic. No. 21.
Fifth Schedule.

13. The justices by whom any such certificates are granted shall, within fourteen days after the granting thereof, transmit to the Colonial Treasurer, or to such other person as may be appointed by the Governor for the purpose of issuing licenses under this Act, a list signed by such justices specifying the names and residences of all the persons to whom they have granted such certificates.

List of certificates to be sent to the Colonial Treasurer.
11 Vic. No. 16, s. 11.
16 Vic. No. 21.

14. Every such certificate shall be null and void unless the same and the sum required to be paid for the license thereby authorised are lodged in the office of the Colonial Treasurer or of such other person on or before the thirty-first day of December next ensuing each annual licensing meeting, and the said Colonial Treasurer or other person shall forthwith, upon the receipt of every such certificate and sum, issue the license thereby authorised and register the same in his office.

Certificates to be void unless lodged and money paid thereon as herein provided.
11 Vic. No. 16, s. 12.

15. Notwithstanding default in lodging any such certificate or sum whereby such certificate shall become void, the Governor may, upon representation to him made of the circumstances occasioning such default,

Governor may authorise a license for a defaulter upon an additional payment.
Ibid. s. 13.

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default, and on payment on or before the thirty-first day of January of not more than five pounds in addition to the sum payable for the license, direct the issue of the license authorised by such certificate.

Majority of resident justices may specially recommend licenses at any time.
11 Vic. No. 16, s. 14.
16 Vic. No. 21.

16. Whenever it appears to a majority of the entire number of justices residing within any city, town, or police district in petty sessions assembled, or any three of them if such majority is more than three, that any injustice or material injury of a public nature will be occasioned by delay in the granting of any license under this Act until the next annual meeting for the licensing of auctioneers, such justices may, if they in their discretion think fit, grant at any period of the year the certificate required under this Act, signed by such justices, authorising the issue of a license, and the Colonial Treasurer or such other person shall issue the license applied for, to continue in force until the first day of January next ensuing, unless sooner forfeited.

Colonial Treasurer to publish lists of licensed auctioneers.
11 Vic. No. 16, s. 15.

17. The Colonial Treasurer or such other person shall cause a list of the names and places of abode of all persons duly licensed under this Act, with the description of license granted to each, and in the case of district licenses the police districts for which such licenses have been granted, to be published in the Gazette within one month after such person is so duly licensed as aforesaid.

Auctions after sunset or before sunrise prohibited.
Ibid. s. 24.

18. No auctioneer shall deal in, sell, or put up to sale or resale any estate, goods, or effects whatsoever by public sale, or by way of auction as aforesaid, after sunset or before sunrise of any day throughout the year, and every such auctioneer or seller by commission, or person acting in such capacity, 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.

Penalty for selling by auction without license.
Ibid. s. 25.
13 Vic. No. 13, ss. 1, 2.
Exemptions.
12 Vic. No. 1, s. 11.

19. If any person sells, or offers to sell by way of auction as aforesaid, without having obtained an auctioneer's license, such person shall forfeit and pay for every such offence the sum of two hundred pounds.

Provided that—

13 Vic. No. 13, s. 1.
22 Vic. No. 18, s. 82.

(a) the sheriff of New South Wales, by himself or his deputy, shall have power and authority to sell by public auction all goods and other property, of whatsoever kind, taken by him in execution, without taking out any license under this Act.

(b) the bailiffs of the Courts of Petty Sessions in New South Wales, and the registrars and bailiffs of District Courts and their assistants, may sell by public auction all property of whatsoever kind, taken by them in execution by virtue of process issued from the said Courts, without taking out any license under this Act;

13 Vic. No. 13, s. 2.

(c) all leases of Crown lands, or any property within New South Wales belonging to the Crown, or to intestate estates, may be sold by public auction by any clerk of the bench, chief constable, or other person duly authorized in that behalf by the Governor, without taking out any license under this Act;

(d)

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- (d) Every poundkeeper appointed under the Impounding Act, 1898, Poundkeepers. Act No. 6, 1898. may sell any animal, as defined by the said Act, impounded in the public pound of which he is the keeper, without taking out any license under this Act; and
- (e) this Act shall not apply to any person who is authorised by any Act heretofore or hereafter passed, to sell by auction without an auctioneer's license.

20. (1) All fines, penalties, and forfeitures imposed by this Act which exceed the sum of twenty pounds shall be recovered by action of debt, statement of claim, or information in the Supreme Court of New South Wales, and all fines, penalties, and forfeitures imposed by this Act which do not exceed the sum of twenty pounds shall be recovered before any two or more justices of the peace in a summary manner, and every such fine, penalty, and forfeiture respectively shall, if not paid within six days after judgment or conviction, be levied by distress and sale of the offender's goods and chattels, and for want of sufficient distress by imprisonment of such offender for any time not exceeding six months or until such fine be paid.

(2) The money arising from all such fines, penalties, and forfeitures shall be paid, the one moiety thereof to Her Majesty for the public uses of the said Colony and in support of the Government thereof, as may be appointed by any Act, and the other moiety to and for the use of such persons as shall inform or sue for the same:

But nothing herein contained shall be deemed or construed to prevent Her Majesty from pardoning the offender, and from remitting the whole or any part of any such fine, penalty, or forfeiture as to Her Majesty shall seem meet.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

No. of Act.	Title of Act.	Extent of repeal.
11 Vic. No. 16..	An Act to regulate the licensing of auctioneers and the collection of duties on property sold by them.	The whole Act.
12 Vic. No. 1 ..	An Act to simplify and alter the law in some respects	Section 11.
13 Vic. No. 13..	An Act to enable Bailiffs of the Courts of Requests, and of Petty Sessions respectively to sell by auction without a license.	The whole Act.
16 Vic. No. 21..	An Act to repeal so much of the Act passed in the eleventh year of Her present Majesty's reign, numbered sixteen, as imposes and relates to the collection of duties on property sold by auctioneers.	The whole Act.
22 Vic. No. 18..	" District Courts Act of 1858 "	Section 82.

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SECOND

Auctioneers' Licensing.

Section 4.

SECOND SCHEDULE.

Form of an auctioneer's general license.

WHEREAS, A.B., of _____, hath deposited in this office a certificate from the justices of the peace assembled in petty sessions at _____ on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ [or a single justice, as the case may be] authorising the issue to the said A.B. [under and by virtue of the Act No. 24, A.D., 1898, intituled "*An Act to consolidate the Acts relating to the licensing of Auctioneers*"] of the license in the said Act, called an auctioneer's general license, for all parts of New South Wales: And whereas the said A.B. hath paid into my office the sum of fifteen pounds sterling, or the sum proportionate to the period of the year for which the license shall have to run, as the duty on such license: Now I, the Colonial Treasurer of the said Colony [or E.F., a person appointed by the Governor of the said Colony for the purpose of issuing licenses under the said Act, as the case may be], in virtue of the powers vested in me by the said Act, do hereby license the said A.B. to act as an auctioneer for all parts of the Colony of New South Wales, and this license shall continue in force until the first day of January next, provided it be not forfeited in the meantime according to the provisions of the said Act.

Given under my hand and seal at Sydney, this _____ day of _____, one thousand eight hundred and _____

Registered
G.H.

C.D. (L.S.),
Colonial Treasurer
(or other person, as the case may be).

Section 4.

THIRD SCHEDULE.

Form of an auctioneer's district license.

WHEREAS, A.B., of _____ hath deposited in this office a certificate from the justices of the peace assembled in petty sessions at _____ on the _____ day of _____ in the year of our Lord, one thousand eight hundred and _____ [or a single justice, as the case may be], authorising the issue to the said A.B. [under and by virtue of the Act No. 24, A.D. 1898, intituled "*An Act to consolidate the Acts relating to the licensing of Auctioneers*"] of the license in the said Act, called an Auctioneer's District License, for the police district of _____ only: And whereas the said A.B. hath paid into my office the sum of two pounds sterling, or the sum proportionate to the period of the year for which the license shall have to run, as the duty on such license: Now, I, the Colonial Treasurer of the said Colony [or E.F., a person appointed by the Governor of the said Colony for the purpose of issuing licenses under the said Act, as the case may be], in virtue of the powers vested in me by the said Act, do hereby license the said A.B. to act as an auctioneer for the police district of _____, and not elsewhere, and this license shall continue in force until the first day of January next, provided it be not forfeited in the meantime according to the provisions of the said Act.

Given under my hand and seal at Sydney, this _____ day of _____, one thousand eight hundred and _____

Registered,
G.H.

C.D. (L.S.),
Colonial Treasurer
(or other person, as the case may be).

FOURTH

Bankruptcy.

FOURTH SCHEDULE.

Section 5.

Form of notice of application for an auctioneer's license.

To the worshipful the justices of the peace acting in and for the district of
in the Colony of New South Wales.

I, A.B., now residing at (in the parish town or district of),
do hereby give notice that it is my intention to apply to the next annual meeting for the
licensing of auctioneers to be holden for this district for an auctioneer's general license
[or district license, as the case may be].

Given under my hand and seal this day of , 18 .
A.B.

FIFTH SCHEDULE.

Section 12.

Form of certificate by justices to authorise the granting of a license.

At the annual meeting for the licensing of auctioneers (or an adjournment of the
annual licensing meeting or special meeting, as the case may be) of Her Majesty's justices
of the peace acting in and for the district of , holden at , on the
day of , in the year of our Lord, one thousand eight hundred and ,
pursuant to the Act No. 24, A.D. 1898, intituled "*An Act to consolidate Acts relating
to the licensing of Auctioneers,*" for the purpose of considering applications made to us
for licenses pursuant to the said Act, we, being the majority of the justices assembled
at the said sessions (or I being the only justice present after such adjournment of the
said sessions and notice as required by the said Act, or we, being the majority of the
entire number of the justices resident in the said district, as the case may be), do, in virtue
of the power vested in us (or me), hereby authorise the Colonial Treasurer, or other proper
officer, to issue to A.B. of an auctioneer's general license (or district license, as
the case may be) for the year ending on the thirty-first day of December, 18 . And we
do hereby certify that the said A.B. is a fit and proper person to be licensed as aforesaid.

Given under our hands (or hand) the day of , at the place
aforesaid.

G.H., J.P. (L.S.)
I.K., J.P. (L.S.)