

MOCK AUCTIONS ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

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Act No. 17, 1973.

An Act to prohibit certain practices in sales purporting to be sales by auctions. [Assented to, 17th April, 1973.]

**B**E 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. This Act may be cited as the "Mock Auctions Act, Short title. 1973".

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3.

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No. 17, 1973 **3.** (1) In this Act, except in so far as the context or  
 Interpretation. subject matter otherwise indicates or requires—

“competitive bidding” in relation to the sale of goods includes any mode of sale whereby prospective purchasers are enabled to compete for the purchase of goods whether by way of increasing bids or by the offer of goods to be bid for at successively decreasing prices or otherwise;

“lot to which this Act applies” means a lot consisting of, or including one or more, prescribed articles;

“prescribed articles” means any plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament or any musical or scientific instrument or apparatus and includes any article for the time being prescribed as an article to which this Act applies;

“sale of goods by way of competitive bidding” means any sale of goods at which the persons present, or some of them, are invited to buy articles by way of competitive bidding;

“stated” in relation to a sale of goods by way of competitive bidding 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 Act—

(a) any bid stated to have been made at a sale of goods by way of competitive bidding shall be conclusively presumed to have been made and to have been a bid of the amount stated;

(b)

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(b) any reference in this Act 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 made a bid for it, whether that person exists or not; and

(c) anything done in or about the place where a sale of goods by way of competitive bidding is held, if done in connection with the sale, shall be taken to have been done during the course of the sale whether it is done at the time when any goods are being sold or offered for sale by way of competitive bidding or before or after any such time.

4. (1) A person shall not promote or conduct or assist in the promotion or conduct of a mock auction at which one or more lots to which this Act applies are offered for sale. **Prohibition on mock auctions.**

Penalty : \$800 or imprisonment for twelve months.

(2) Subject to subsection (3), for the purposes of this Act a sale of goods by way of competitive bidding shall be a mock auction if, but only if, during the course of the sale—

(a) any lot to which this Act applies is sold to a person bidding for it and either—

(i) it is sold to him at a price lower than the amount of his highest bid for that lot; or

(ii) 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;

(b) the right to bid for any lot to which this Act applies is restricted, or is stated to be restricted, to persons who have bought or agreed to buy one or more articles; or

(c) any articles are given away or offered as gifts.

(3)

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(3) A sale of goods shall not be a mock auction by virtue of subsection (2) (a) if it is proved that the reduction in price or repayment or 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 the bid was made; or
- (b) was on account of damage sustained after that bid was made.

Liability of  
directors,  
etc., of  
corporations.

5. A director, within the meaning of the Companies Act, 1961, or an employee, of a corporation which commits an offence arising under the provisions of this Act is guilty of the same offence and may be punished accordingly unless he satisfies the court that—

- (a) the offence committed by the corporation was committed without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to the commission of the offence by it; or
- (c) he, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

Civil  
remedy not  
affected by  
proceed-  
ings for an  
offence.

6. Notwithstanding any proceedings against any person for an offence against this Act (whether resulting in a conviction or otherwise) such person shall remain liable to all civil proceedings in like manner as if the proceedings for an offence had not been taken.

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7. Proceedings for offences against this Act shall be disposed of in a summary manner before a court of petty sessions. **No. 17, 1973**  
Summary proceedings.

8. The Governor may make regulations, not inconsistent with this Act, for or with respect to all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. **Regulations.**

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**WORKERS'**