

Mock Auctions Act 1973 No 17

[1973-17]



New South Wales

Status Information

Currency of version

Repealed version for 15 July 2001 to 24 August 2003 (accessed 7 August 2024 at 22:22)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by the [Fair Trading Amendment Act 2003 No 35](#), sec 5 with effect from 25.8.2003.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Mock Auctions Act 1973 No 17



New South Wales

An Act to prohibit certain practices in sales purporting to be sales by auctions.

1 Name of Act

This Act may be cited as the *Mock Auctions Act 1973*.

2 Commencement

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 Interpretation

(1) In this Act, except in so far as the context or 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) 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 Prohibition on mock auctions

- (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.

Maximum penalty: 10 penalty units 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 the person at a price lower than the amount of the person's highest bid for that lot, or
 - (ii) part of the price at which it is sold to the person is repaid or credited to the person or is stated to be so repaid or credited,
 - (b) the right to bid for any lot which this Act applies is restricted, or is stated to be restricted, to persons who have brought or agreed to buy one or more articles, or
 - (c) any articles are given away or offered as gifts.
- (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.

5 Liability of directors etc of corporations

A director, within the meaning of the *Corporations Act 2001* of the Commonwealth, 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 the director or employee satisfies the court that:

- (a) the offence committed by the corporation was committed without his or her knowledge,
- (b) he or she 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 or she, being in such a position, used all due diligence to prevent the commission of the offence by the corporation.

6 Civil remedy not affected by proceedings for an offence

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.

7 Summary proceedings

Proceedings for offences against this Act shall be disposed of in a summary manner before a Local Court.

8 Regulations

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.