

Auctioneers Act 1928

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This Act is administered in the Department of Justice.

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**An Act to make better provisions with respect to the licensing of
and the conduct of business by auctioneers**

1 Short Title and commencement

This Act may be cited as the Auctioneers Act 1928, and, except as otherwise provided herein, shall come into force on the 1st day of April 1929.

2 Interpretation

In this Act, if not inconsistent with the context,—

Auctioneer means a person licensed under this Act to carry on business as an auctioneer, and where the context requires includes a person authorised by a licence under this Act to conduct sales by auction

local authority means a territorial authority within the meaning of the Local Government Act 2002

Local authority: this definition was amended, as from 1 April 1955, by section 413(6) Municipal Corporations Act 1954 (1954 No 76), by omitting the words “or Board”.

Local authority: this definition was substituted, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59).

Local authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act for the savings and transitional provisions.

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Minister: this definition was substituted, as from 4 October 1957, by section 2 Auctioneers Amendment Act 1957 (1957 No 11).

Minister: this definition was substituted, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39).

Outcry includes any request, inducement, puff, device, or incitement made or used by means of signs, speech, or otherwise in the presence of not less than 6 people by any person for the purpose of selling any property offered or available for sale, whether such property is or is not the same as that shown or referred to by him when making or using such request, inducement, puff, device, or incitement

Prescribed means prescribed by regulations under this Act

Sales by auction or **sell by auction** means the selling of property of any kind, or any interest or supposed interest in any property, by outcry, by the auctioneer saying “I’ll take” and commencing at a higher figure and going to a lower figure, by what is known as Dutch auction, knocking-down of hammer, candle, lot, parcel, instrument, machine, or any other mode whereby the highest, the lowest, or any bidder is the purchaser, or whereby 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 where there is a competition for the purchase of any property or any interest therein in any way commonly known and understood to be by way of auction; and shall be deemed to include the selling of any property by outcry in any public place, as the same is defined in the Summary Offences Act 1981, or in any room, or mart, or place to which the public are admitted or have access, whether or not the sale of the goods has been advertised to take place.

Sales by auction: the reference to the Summary Offences Act 1981 was substituted, as from February 1982, for a reference to the Police Offences Act 1927 by section 51(3) Summary Offences Act 1981 (1981 No 113).

Licensing of auctioneers

3 No person to carry on business as an auctioneer unless licensed

- (1) No person shall, except as hereinafter provided, carry on business as an auctioneer unless he is the holder of an auctioneer's licence under this Act.
- (2) Where 2 or more persons carry on business as auctioneers in partnership it shall be sufficient compliance with this section if one of those persons is the holder of a licence applied for and issued on behalf of the partnership firm as provided by this Act.
- (3)
- (4) The holder of an auctioneer's licence shall not thereby be authorised to conduct sales by auction unless he is specified in the licence as the other person authorised thereunder to conduct sales by auction.

Subsection (3) was repealed, as from 1 April 1958, by section 3(a) Auctioneers Amendment Act 1957 (1957 No 11).

4 Disqualification of applicants

No licence shall be issued under this Act to—

- (a) The holder of an on-licence under the Sale of Liquor Act 1989:
- (b)

- (c) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled.

The reference to “a hotelkeeper’s licence” was substituted, as from 1 June 1963, for a reference to “a publican’s licence” by section 301(10) Sale of Liquor Act 1962 (1962 No 139). That reference was in turn substituted, as from 1 June 1990, by a reference to “an on-licence” by section 231 Sale of Liquor Act 1989 (1989 No 63).

The reference to the Licensing Act 1908 was substituted, as from 1 June 1963, by a reference to the Sale of Liquor Act 1962 by section 301(1) Sale of Liquor Act 1962 (1962 No 139). That reference was in turn substituted, as from 1 April 1990, by a reference to the Sale of Liquor Act 1989 by section 230(2) Sale of Liquor Act 1989 (1989 No 63).

Paragraph (b) was repealed, as from 1 April 2005, by section 89 Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70).

5 Duration of licences issued before commencement of this Act

[Spent]

6 Duration of licences

Every licence issued to take effect after the commencement of this Act shall, unless sooner terminated in accordance with this Act, continue in force until the 31st day of March then next following, and may from time to time be renewed for the period ending on the 31st day of March next after the commencement of an order for renewal.

7 Application for licence

- (1) Every person who desires to obtain a licence under this Act shall make application therefor in the form prescribed by regulations.
- (2) Every application under this section shall state—
- (a) The place or places of business of the applicant, and where he has 2 or more places of business which of those places is his principal place of business, and the name or style under which he proposes to carry on business as an auctioneer if such business is not to be carried on in his own name; and
- (b) Where the application is for a licence on behalf of 2 or more persons carrying on business as partners—

- (i) The name and address of each of the partners;
 - (ii) The name under which the partnership business is carried on;
 - (iii) The name of one of the partners to whom it is desired the licence shall be issued on behalf of all the partners; and
- (c)
- (d) In every case (whether the application is by an individual or a company or on behalf of partners) the name and address of the person or persons (being the holder of the licence or any other person) who it is desired shall be authorised to conduct auction sales under the licence; and
 - (e)
 - (f) Such other particulars as may be prescribed.
- (3) Where the applicant desires that more than one person shall conduct auction sales as aforesaid, it shall be necessary to apply for a separate licence in respect of each such person:
Provided that, where the applicant is a company, application may be made in respect of several persons whom the applicant desires to conduct auction sales on its behalf, and the licence may make provision accordingly.
- (4) Every application under this section shall be filed in the District Court nearest by the most convenient route to the place of business named in the application as the place of business or the principal place of business of the applicant.
- (5)

Subsection (2)(c) was repealed, as from 1 April 1958, by section 3(b) Auctioneers Amendment Act 1957 (1957 No 11).

Subsection (2)(d) was amended, as from 1 April 1958, by section 3(c) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “(whether the application is by an individual or a company or on behalf of partners) the name and address of the person or persons” for the words “(whether the application is on behalf of an individual, or partners, or a company) the name and address of a person”.

Subsection (2)(e) was repealed, as from 1 April 1958, by section 3(d) Auctioneers Amendment Act 1957 (1957 No 11).

The proviso to subsection (3) was inserted, as from 1 April 1958, by section 4(1) Auctioneers Amendment Act 1957 (1957 No 11).

The words "District Court" in subsection (4) were substituted for the words "Magistrate's Court", as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

8 Applicants to give security by approved bond

- (1) With every application for the grant of an auctioneer's licence under this Act there shall, save as hereinafter provided in this section, be filed in the District Court one or more fidelity bonds to Her Majesty, to be approved by the District Court Judge, conditioned to secure the fidelity of the applicant or, where the application is made on behalf of a firm, conditioned to secure the fidelity of each of the partners of the firm.
- (2) Every such bond shall be for the sum of \$1,000:
Provided that where application is made for 2 or more licences by the same applicant or where application for an additional licence is made by the holder of a licence the total amount secured shall not exceed \$1,000 for each application or \$5,000 for all such applications:
Provided also that, where application is made by a company in respect of 2 or more persons whom the applicant desires to conduct auction sales on its behalf, the total amount secured shall not exceed \$1,000 in respect of each such person or \$5,000 in respect of all such persons.
- (3) Every such bond shall be in the form in the Schedule hereto or to the like effect. Such form may be varied to such extent as may be necessary where the application for a licence is made on behalf of partners or by a company.
- (4) Where any person, firm of partners, or company makes more than one application for an auctioneer's licence it shall be sufficient compliance with the requirements of this section if a fidelity bond or bonds as aforesaid, so expressed as to bind the surety or sureties in respect of any licence that may be granted to the applicant, is filed with any one of such applications, and notice in the prescribed form of the filing of such bond or bonds is filed with every other application for an auctioneer's licence made by the applicant.
- (5) The sum named in any fidelity bond under this section shall not be deemed to be a penalty, but shall be liquidated damages, and shall accordingly be recoverable in full as a debt due by the

surety or sureties to Her Majesty unless the surety or sureties prove performance of every condition upon breach of which the bond is defeasible.

- (6) Every sum so recovered shall be paid into the Crown Bank Account, and the residue after the deduction of costs and other expenses may with the approval of the Minister of Finance and without further appropriation than this Act be applied—
- (a) In compensating any client or customer of the auctioneer or other person for any loss sustained by reason of the acts, defaults, or omissions of the auctioneer; and
 - (b) In refunding to the surety or sureties any balance left after payment of such compensation.
- (7) For the purpose of enabling a proper application to be made of any sum recovered as aforesaid under any bond, a District Court Judge shall on the application in writing of the Minister order that any person appointed by the Minister shall have access to the books, papers, and accounts of the auctioneer named in such bond.

The words “District Court” in subsection (1) were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

The second proviso to subsection (2) was inserted, as from 1 April 1958, by section 4(2) Auctioneers Amendment Act 1957 (1957 No 11).

Subsection (3) was amended, as from 1 April 1958, by section 3(e) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “or by a company” for the words “or a company”.

The words “Consolidated Revenue Account” in subsection (6) were substituted for the words “Consolidated Fund”, as from 1 April 1964, pursuant to section 4(4) Public Revenues Amendment Act 1963 (1963 No 46).

Subsection (6) was amended, as from 18 November 1964, by section 2(a) Auctioneers Amendment Act 1964 (1964 No 78) by substituting the words “Public Account to the credit of the Trust Account” for the words “Consolidated Revenue Account”.

Subsection (6) was further amended, as from 1 July 1989, by section 83(7) Public Finance Act 1989 (1989 No 44) by substituting the words “Crown Bank Account” for the words “Public Account to the credit of the Trust Account”.

Subsection (6) was further amended, as from 18 November 1964, by section 2(b) Auctioneers Amendment Act 1964 (1964 No 78) by substituting the words “Minister of Finance” for the word “Governor-General”.

The words “District Court Judge” in subsections (1) and (7) were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

9 Application of fidelity bond to renewals of licence

- (1) A fidelity bond given under this Act may if so provided therein enure not only during the term of the licence in respect of which it is originally given but during the term of any licence to the same person issued in renewal of a licence under this Act.
- (2) If a fidelity bond is so given as to enure in respect of the renewal or further renewal of a licence it shall be lawful for the surety or sureties, by notice in writing addressed to the Registrar of the District Court, at any time before the issue of a licence in renewal, to determine his or their liability under the bond in respect of any act or default that may be done or made after the 31st day of March next following the date of such notice, and in any such case the District Court Judge shall not issue a licence in renewal until another approved bond has been lodged by the applicant.

In subsection (2) the words “the Registrar” were substituted for the words “the Clerk”, as from 1 January 1949, pursuant to section 12(4) Magistrates’ Courts Act 1947 (1947 No 16).

The words “District Court” in subsection (2) were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

The words “District Court Judge” in subsection (2) were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

10 Notice of application for licence

- (1) Notice in the prescribed form of every application for a licence under this Act shall be published by the applicant twice at least in some newspaper to be approved for the purpose by the Registrar of the District Court in which the application for a licence is filed, and the application for the licence shall not be heard before the expiry of one month after the first publication of such notice.
- (2) Any person who objects to the issue of a licence under this Act may, within one month after the first publication of the notice of application pursuant to the last preceding subsection, file in the District Court in which the application for a licence is filed a notice in the prescribed form of his objection to the application and of the grounds thereof.

- (3) No such objection shall be considered unless and so far as the grounds thereof affect the character or financial position of the applicant, or, in the case of an application by or on behalf of a firm, the character or financial position of the partners, or, in the case of an application by a company, the financial position of the company or the character of the directors or of the general manager, or, in any case, the character of every person who it is proposed shall be authorised to conduct auction sales under the licence.

In subsection (2) the words “the Registrar” were substituted for the words “the Clerk”, as from 1 January 1949, pursuant to section 12(4) District Courts Act 1947 (1947 No 16).

The words “District Court” in subsection (2) were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (3) was amended, as from 1 April 1958, by section 3(f) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “by a company” for the words “by or on behalf of a company”.

Subsection (3) was further amended, as from 1 April 1958, by section 4(4)(a) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “every person” for the words “the person”.

11 Hearing of application

- (1) Every application for a licence under this Act and the objections thereto (if any) shall be heard by a District Court Judge exercising jurisdiction in the Court in which the application is filed; and the District Court Judge, if satisfied that the provisions of this Act have been complied with, and that the applicant is fit to be the holder of an auctioneer’s licence, and that every person who it is proposed shall be authorised to conduct auction sales under the licence is a fit and proper person for that purpose, shall on payment of the prescribed fees issue to the applicant a licence in the prescribed form.
- (2) There shall be payable in respect of the issue of a licence and of the renewal of a licence such fees as may be prescribed by regulations under this Act. Different fees may be prescribed in respect of licences available generally throughout New Zealand and in respect of licences available only in a special district, and smaller fees may be prescribed in respect of each additional licence issued to the same person. In the case of a licence issued to a company an additional fee may

be prescribed in respect of each person after the first who is authorised to conduct auction sales on behalf of the company.

- (3) Any such regulations may provide that, where a licensee has more than one place of business, an additional licence fee shall be payable in respect of each additional place of business.

Subsection (1) was amended, as from 1 April 1958, by section 4(4)(b) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “every person” for the words “the person”.

Subsection (1) was further amended, as from 1 April 1958, by section 5(2)(a) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “the prescribed fees” for the words “the fees hereinafter specified”.

The words “District Court Judge” in subsection (1) were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsections (2) and (3) were substituted, as from 1 April 1958, by section 5(1) Auctioneers Amendment Act 1957 (1957 No 11).

12 Evidence as to character and financial position

- (1) Before granting an application for an auctioneer’s licence the District Court Judge shall require the production of sufficient evidence to satisfy him that the character and financial position of the applicant are such that he is in the opinion of the District Court Judge, having regard to the interests of the public, a fit and proper person to hold such a licence, and that the character of every person who it is proposed shall be authorised to conduct auction sales under the licence is such that he is a fit and proper person for the purpose.
- (2) Where application for a licence is made by or on behalf of 2 or more persons in partnership the District Court Judge may in the exercise of his powers under this section require the production of evidence as to the character and financial position of each of the partners.
- (3) Where application for a licence is made by . . . a company the District Court Judge shall, unless in the circumstances he otherwise decides, require the production of evidence as to the financial position of the company, and as to the character of the directors and general manager

Subsection (1) was amended, as from 1 April 1958, by section 4(4)(c) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “every person” for the words “the person”.

Subsection (3) was amended, as from 1 April 1958, by section 3(g) Auctioneers Amendment Act 1957 (1957 No 11) by omitting the words “or on behalf of”.

Subsection (3) was further amended, as from 1 April 1958, by section 3(h) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “the [District Court Judge] shall, unless in the circumstances he otherwise decides,” for the words “the Magistrate may in the exercise of his powers under this section”.

Subsection (3) was further amended, as from 1 April 1958, by section 3(g) Auctioneers Amendment Act 1957 (1957 No 11) by omitting the words “and of any other person in respect of whom application to hold the licence on behalf of the company has been made”.

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

13 Applicant also applying for licence as real estate agent

In any case where an applicant for an auctioneer’s licence also files in the same Court an application for a licence under the Real Estate Agents Act 1976, the notice required by section 10 hereof may in the prescribed form be combined with the notice required by section 20 of the aforesaid Act, and both applications may be heard and determined together.

References to the Land Agents Act 1953 and section 7 were substituted, as from 1 January 1954, for references to the Land Agents Act 1921-22 and section 9 by section 32(1)(a) Land Agents Act 1953x (1979 No 125). Those references were in turn substituted, as from 1 April 1964, by references to the Real Estate Agents Act 1963 and section 8 by section 84(1) Real Estate Agents Act 1963 (1963 No 135) for references to the Real Estate Agents Act. Those references were in turn substituted, as from 1 April 1977, by references to the Real Estate Agents Act 1976 and section 20 by section 125(a) Real Estate Agents Act 1976 (1976 No 9) by substituting the expression “the Real Estate Agents Act 1976” for the expression “the Land Agents Act 1953”.

14 Endorsements on licences

- (1) Every auctioneer’s licence shall have endorsed thereon—
 - (a) The name and address of every person authorised to conduct auction sales under the licence; and
 - (b) In the case of a licence issued to 2 or more persons carrying on business as partners, the name and description of each of the partners.
- (2) Any person whose name and address are endorsed on the licence pursuant to paragraph (a) of the last preceding subsection may from time to time be changed on application in that behalf made by the holder of the licence to the Registrar of the

Court in which the licence was issued. On payment of the prescribed fee the Registrar, if satisfied as to the character of the person in respect of whom such application is made, shall cancel the former endorsement and make a further endorsement on the licence according to the tenor of the application.

- (2A) Every company that is the holder of a licence may at any time apply to the Registrar of the Court in which the licence was issued to add to the licence the name and address of any additional person whom the applicant desires to conduct auctions on its behalf, and, on payment of the prescribed fee, the Registrar, if satisfied as to the character of the person in respect of whom the application is made, shall endorse the licence according to the tenor of the application.
- (2B) Subject to the second proviso to subsection (2) of section 8 of this Act, with every application under subsection (2A) of this section there shall be filed a fidelity bond for the sum of \$1,000 in respect of each person to whom the application relates, and the provisions of section 8 of this Act shall apply thereto as if the application were an application for the grant of an auctioneer's licence under this Act.
- (3) Any person whose name is endorsed on a licence pursuant to this section shall have authority to conduct auction sales on behalf only of the holder of such licence:
Provided that nothing herein shall prevent the holder of an auctioneer's licence from undertaking the conduct of an auction sale on account of any other person being the holder of such a licence, or from using for the purposes of any such sale the services of any person authorised to conduct auction sales on his behalf.
- (4) Notwithstanding anything contained in this Act, the holder of a licence may appoint any person to temporarily relieve during the progress of any sale any person authorised to conduct auction sales on his behalf, or to act in the place of such authorised person for not more than one day on any occasion when by reason of illness or other unavoidable cause such authorised person is prevented from conducting any sale or sales by auction.

Subsection (1)(a) was amended, as from 1 April 1958, by section 4(4)(d) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “every person” for the words “the person”.

Subsection (2) was amended, as from 1 April 1958, by section 4(4)(e) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “any person” for the words “the person”.

Subsection (2) was further amended, as from 1 April 1958, by section 5(2)(b) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “the prescribed fee” for the words “a fee of 10 shillings”.

In subsection (2) the words “the Registrar” were substituted for the words “the Clerk”, as from 1 January 1949, pursuant to section 12(4) Magistrates’ Courts Act 1947 (1947 No 16).

Subsections (2A) and (2B) were inserted, as from 1 April 1958, by section 4(3) Auctioneers Amendment Act 1957 (1957 No 11).

Subsection (4) was amended, as from 1 April 1958, by section 4(4)(f) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “any person” for the words “the person”.

15 Use of trade name

- (1) No licensee shall during the currency of his licence carry on business as an auctioneer under any name or style (not being his own name) other than the name or style stated in the licence, save with the consent of a District Court Judge exercising jurisdiction in the Court in which the licence was issued.
- (2) Every application for such consent shall be in the prescribed form and shall be accompanied by the prescribed fee.
- (3) The District Court Judge may in his discretion grant or refuse such application, and where it is granted the Registrar of the Court shall make the necessary alteration in the licence

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (3) was amended, as from 1 April 1958, by section 6(2)(a) Auctioneers Amendment Act 1957 (1957 No 11) by omitting the words “and notify the change of name or style to the Minister”.

The words “the Registrar” in subsection (3) were substituted for the words “the Clerk”, as from 1 January 1949, pursuant to section 12(4) Magistrates’ Courts Act 1947 (1947 No 16).

16 Renewal of licences

- (1) Application for the renewal of a licence may be made not earlier than the 1st day of January and not later than the last day of February preceding the date of the expiry of the licence, and

shall be filed by the applicant in the same manner as if it were an application for the grant of a licence.

- (2) Every person who objects to the renewal of a licence under this Act may at any time before the 7th day of March in any year file in the District Court in which application for the renewal of the licence has been filed a notice in the prescribed form of his objection to the application and of the grounds thereof.
- (3) No such objection shall be considered unless and so far as the grounds thereof affect the character or financial position of the applicant, or, in the case of an application by or on behalf of a firm of partners, the character or financial position of the partners, or, in the case of an application by a company, the financial position of the company or the character of the directors or of the general manager, or, in any case, the character of any person who it is proposed shall be authorised to conduct auction sales under the licence.
- (4) Where any objection is lodged to the renewal of a licence, the District Court Judge shall hear and determine the application for renewal in the same manner as if it were an application for the issue of a licence.
- (5) In the absence of any objection to an application for the renewal of a licence the District Court Judge may on payment of the appropriate fee grant a renewal without further inquiry as to the fitness of the applicant to hold an auctioneer's licence, or the fitness of any person who it is proposed shall conduct auction sales under the licence.
- (6) The District Court Judge may in his discretion hear and determine any application for the renewal of a licence, or any objection to such renewal, notwithstanding that such application or objection may not have been filed within the times limited by this section in that behalf.
- (7) If application for the renewal of a licence has been filed but is not determined on or before the 31st day of March in any year, the licence shall, notwithstanding anything to the contrary in this Act, be deemed to be extended until the application is disposed of by a District Court Judge in accordance with this Act; and the Registrar of the Court shall in the prescribed

form forthwith give to the Minister notice of such non-determination.

The words “District Court” in subsection (2) were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (3) was amended, as from 1 April 1958, by section 3(i) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “by a company” for the words “by or on behalf of a company”.

Subsections (3) and (5) were amended, as from 1 April 1958, by section 4(4)(g) Auctioneers Amendment Act 1957 by substituting the words “any person” for the words “the person”.

In subsection (7) the words “the Registrar” were substituted for the words “the Clerk”, as from 1 January 1949, pursuant to section 12(4) Magistrates’ Courts Act 1947 (1947 No 16).

The words “District Court Judge” in subsections (4) to (7) were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

17 District Court Judge may award costs

On the hearing of any application for a licence or for the renewal of a licence under this Act the District Court Judge shall if any objection to the application has been filed have jurisdiction to determine what costs (if any) shall be paid to or by the objector or the applicant respectively, and to adjudge that such costs be paid.

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

18 Notice of issue or renewal of licenses to be given

[Repealed]

Sections 18 to 21 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

19 Register of Auctioneers

[Repealed]

Sections 18 to 21 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

20 Inspection of register

[Repealed]

Sections 18 to 21 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

21 Publication of list of auctioneers

[Repealed]

Sections 18 to 21 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

22 Transfer of licences

- (1) A licensee, or the personal representative of a deceased licensee, or the assignee in bankruptcy of a licensee who has been adjudged bankrupt, or the liquidator of a company being a licensee, may on payment of the prescribed fee transfer a licence under this Act to any person approved by a District Court Judge in that behalf.
- (2) Every application for a transfer under this section shall be filed and advertised, and objections may be received, and the application and objections (if any) shall be heard and determined in all respects as if the application for a transfer were an application for the grant of a licence under this Act.

Subsection (1) was amended, as from 1 April 1958, by section 5(2)(c) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “the prescribed fee” for the words “a fee of 10 shillings”.

The words “District Court Judge” in subsection (1) were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

23 Auctioneer to have registered office

- (1) Subject to the provisions of this section as to changing the registered office of an auctioneer, the place of business of an auctioneer mentioned in his application for a licence, or where an auctioneer has 2 or more places of business his principal place of business, shall be deemed to be the registered office of the auctioneer.
- (2) Any summons, notice, order, or other document required to be served upon an auctioneer may be served by leaving the same at his registered office, or by sending it through the post in a prepaid and registered letter addressed to him at that office.

(3) An auctioneer may by notice in writing filed in the District Court change his registered office to any other place of business in which he carries on business as an auctioneer.

(4)

The words “District Court” were substituted for the words “Magistrate’s Court”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (4) was repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

24 Effect of licence

Save as provided in section 28 hereof with respect to special districts, a licence under this Act shall authorise the holder thereof to carry on business as an auctioneer in any part of New Zealand during the currency of the licence:

Provided that every licensed auctioneer who during the currency of his licence ceases to carry on business at any place mentioned in his application for such licence, or commences to carry on business at any additional or other place of business, shall in the prescribed form give notice thereof to the Registrar of the Court in which the licence was issued

The proviso was amended, as from 4 October 1957, by section 6(2)(b) Auctioneers Amendment Act 1957 (1957 No 11) by omitting the words “and the Registrar shall notify the Minister, who shall cause a memorandum thereof to be entered in the Register of Auctioneers and to be published in the *Gazette*”.

The words “the Registrar” in the proviso were substituted, as from 1 January 1949, for the words “the Clerk” pursuant to section 12(4) Magistrates’ Courts Act 1947 (1947 No 16).

25 Cancellation of licences

- (1) A licence under this Act may be cancelled if the licensee—
- (a) Is convicted of an offence under section 37 or section 38 of this Act; or
 - (b) Having been convicted of an offence against this Act (not being an offence referred to in the last preceding paragraph), is within 12 months after such conviction again convicted of an offence against this Act; or
 - (c) Is convicted, whether summarily or on indictment, of any offence involving moral turpitude, or dishonouring him in the public estimation.

- (2) The Court before which any person is convicted of any offence may of its own motion cancel the licence in any case where such conviction is a ground for the cancellation of the licence.
- (3) Application for the cancellation of a licence on any of the grounds aforesaid may be made by any person, and shall be made by filing the same in the District Court in which the licence was issued, and thereupon any District Court Judge exercising jurisdiction in that Court shall have power to hear the application and to cancel the licence.

The words "District Court" in subsection (3) were substituted for the words "Magistrate's Court", as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

The words "District Court Judge" in subsection (3) were substituted for the word "Magistrate", as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

25A Voluntary surrender of licence

- (1) A licensee may at any time surrender his licence by forwarding a written notice to that effect, together with the licence, to the District Court in which the Court records relating to the licence are held.
- (2) The Registrar of that Court shall endorse on the notice the date on which he receives it, and the licence shall, as from that date, cease to have effect.
- (3) The surrender of a licence under this section shall not affect the licensee's liability—
 - (a) To pay any fees or other money payable or to be payable in accordance with this Act on or before the date on which the licence would, but for its surrender, expire:
 - (b) To perform any obligation required to be performed by him by or under this Act on or before that date:
 - (c) For any act done or default made before the date on which the licence ceased to have effect.

This section was inserted, as from 23 December 1977, by section 2 Auctioneers Amendment Act 1977 (1977 No 144).

The words "District Court" in subsection (1) were substituted for the words "Magistrate's Court", as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

26 Cancellation of licenses

[Repealed]

Sections 26 and 27 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

27 Removal of name from register on cancellation of licence, & c.

[Repealed]

Sections 26 and 27 were repealed, as from 4 October 1957, by section 6(1) Auctioneers Amendment Act 1957 (1957 No 11).

Special districts**28 Governor-General may constitute special districts**

- (1) The Governor-General may from time to time by Order in Council declare special districts for the purposes of this Act, comprising any parts of New Zealand which are sparsely populated, and may in like manner revoke any such Order or alter the boundaries of any special district.
- (2) An auctioneer's licence issued in respect of any special district shall not entitle the holder thereof to sell by auction elsewhere than in such special district.
- (3) All special districts declared under the Auctioneers Act 1908 and in existence on the commencement of this Act shall be deemed to be special districts declared pursuant to this section.

29 Fresh fish may be sold at auction at any time

[Repealed]

Section 29 was repealed, as from 4 June 1975, by section 7(2)(a) Municipal Corporations Amendment Act 1975 (1975 No 2).

Duties of auctioneers**30 Auctioneer to display notice on registered office, etc.**

Every person to whom an auctioneer's licence is issued under this Act shall exhibit and keep exhibited in a prominent place on his registered office and on every branch office, so as to be easily read from outside that office, a notice of his name and of the fact that he is the holder of such a licence, together with

the name or style under which he carries on business as an auctioneer if such business is not carried on in his own name.

31 Time for rendering account of sales

- (1) Subject to subsection (4) hereof, every auctioneer shall within 14 days (excluding bank holidays) after an auction sale, or within such longer period as the Minister may appoint, render to the person on whose behalf such sale took place a correct account of that sale, and shall within such period of 14 days or such longer period as aforesaid pay to such person the balance of the proceeds of such sale received by the auctioneer.
- (2) For the purposes of this section the balance of the proceeds of any sale shall be the amount remaining after deducting from such proceeds all expenses, commission, and other charges of or incidental to such sale and any money owing to the auctioneer by the person on whose behalf such sale took place.
- (3) Any extension of time allowed pursuant to the last preceding subsection shall be in writing under the hand of the Minister, and may apply in respect of the sale by auction of any specified class of property, or be limited to any particular transaction or transactions.
- (4) Notwithstanding anything to the contrary in the foregoing provisions of this section, but subject to any agreement between him and the person on whose behalf a sale has been made, every auctioneer shall within 7 days after demand by such person render to him such account as aforesaid, and pay to him the balance of the proceeds of the sale:

Provided that nothing in this section shall render it obligatory on an auctioneer to pay the proceeds of any sale of real property until 7 days after the sale is completed according to the conditions of sale.

Offences

32 Offence of selling by auction without authority

Save as otherwise authorised by this Act, every person who not being the holder of a licence under this Act carries on business as an auctioneer, or who not being a person authorised in that

behalf under this Act conducts any sale by auction, commits an offence and is liable to a fine of \$200.

33 Holding out as auctioneer without licence

Every person not being the holder of an auctioneer's licence under this Act commits an offence and is liable to a fine of \$200 who describes himself in writing or holds himself out as an auctioneer.

34 Lending or hiring of licences

Every person commits an offence and is liable to a fine of \$100 who lets out, or hires, or lends any licence granted to him, or, except as authorised by this Act, trades with or under colour of any licence granted to any other person.

35 Not exhibiting licence on demand

- (1) Every person who carries on business as an auctioneer, or describes himself or holds himself out as an auctioneer, commits an offence and is liable to a fine of \$20 if on demand by any constable he does not produce and show to such constable a licence under this Act authorising him to carry on such business.
- (2) Every person who conducts any sale by auction commits an offence and is liable to a fine of \$20 if on demand by any constable he does not give to such constable his name and address and the name and address of the licensee on whose behalf he claims to be authorised to sell by auction.

36 Selling contrary to Act

Every licensed auctioneer who carries on his business and every person who conducts sales by auction at any time or in any manner contrary to this Act commits an offence and is liable to a fine of \$20.

37 Neglect to render account or to pay over proceeds of sale

Every auctioneer commits an offence and is liable to a fine of \$20 who fails to comply with the requirements of section

31 hereof with respect to rendering of accounts or payment of the proceeds of any sale of property by auction.

38 Misappropriation, theft, falsifying accounts

Every auctioneer commits a crime and is liable on conviction to 2 years' imprisonment . . . who—

- (a) Fraudulently converts to his own use the balance of the proceeds of any property sold by auction by him or any part of such proceeds, or fraudulently omits to pay such balance or any part thereof to the person entitled thereto:
- (b) With intent to defraud, renders any account of the proceeds of any property sold by auction by him knowing the same to be false in any material particular.

This section was amended, as from 1 January 1955, pursuant to section 40(1) Criminal Justice Act 1954 by omitting the words “with or without hard labour”.

39 General penalty

Every person who commits any breach of any of the provisions of this Act for which no penalty is provided elsewhere than in this section is liable to a fine of \$10.

40 Penalty for failing to give access to books, papers, etc

Every person commits an offence and is liable to a fine of \$200 who, having the custody or possession of any books, papers, or accounts of an auctioneer, refuses or fails to allow to have access thereto any person duly authorised in that behalf pursuant to any order of a District Court Judge under subsection (7) of section 8 hereof, or who obstructs any such authorised person in the exercise of his powers under such order.

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

41 Recovery of fines

All proceedings in respect of offences against this Act (not being indictable offences) shall be heard and determined summarily by a District Court Judge sitting alone.

The words “District Court Judge” were substituted for the word “Magistrate”, as from 1 April 1980, pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Miscellaneous

42 Disposal of fees

After deducting therefrom such amount as may be prescribed in respect of the cost of administering this Act, every fee received under this Act shall, . . . be paid to the local authority prescribed by regulations made under this Act.

This section was amended, as from 1 April 1932, by section 4(3) Finance Act 1932 (1932 No 11) by omitting the words “without further appropriation than this section”. The Finance Act 1932 has been repealed by section 3(1) of the Public Finance Act 1977.

This section was further amended, as from 1 April 1958, by section 3(j) Auctioneers Amendment Act 1957 (1957 No 11) by substituting the words “prescribed by regulations made under this Act” for the words “named in the application for the licence in respect of which such fee was paid”.

43 Regulations

(1) The Governor-General may from time to time by Order in Council make regulations under this Act—

- (a) Prescribing forms of licences, of applications for licences, and renewals thereof, and of objections to the granting or renewal of licences under this Act:
- (b) Prescribing forms of advertisements and other notices under this Act:
- (c) Prescribing the amounts that may be deducted from the fees paid under this Act in respect of the expenses of administering this Act and providing for the disposal of such amounts:
- (d) Generally for the purpose of carrying this Act into effect.

(2)

(3)

Subsection (2) was repealed, as from 19 December 1989, by section 11 Regulations Disallowance Act 1989 (1989 No 143).

44 Sales exempted from Act, and saving of civil remedies

Nothing in this Act—

- (a) Shall extend to any sale made by order of the Governor-General or of any Collector of Customs, or to any sale under any writ or process issued by or out of any Court of Justice, or to any sale of animals sold under the law relating to public pounds, or to any sale held under any Act authorising any person who does not hold an auctioneer's licence to conduct a sale by auction; or
- (b) Shall be deemed to take away or limit any civil right or remedy that any person has against an auctioneer in respect of any matter constituted an offence under this Act, or any liability of such auctioneer in respect of any such matter; or
- (c) Shall be construed to repeal any enactment authorising particular sales to be conducted without an auctioneer's licence; or
- (d) Shall render legal any sale that is contrary to law.

45 Repeals and savings

- (1) The Auctioneers Act 1908, the Auctioneers Amendment Act 1910, and the Auctioneers Amendment Act 1915, are hereby repealed.
- (2) All proceedings in respect of offences committed before the commencement of this Act against any of the Acts hereby repealed, or any regulations thereunder, may be instituted or continued as if this Act had not been passed.

Schedule

Section 8(3)

Fidelity bond

Know all men by these presents that, of, is are held and firmly bound unto Her Majesty the Queen in the sum of for the payment of which sum to Her Majesty the said doth do jointly and severally bind itself and its successors ourselves, our executors and administrators firmly by these presents.

Whereas, of, has made application for the issue to him of a licence under the Auctioneers Act 1928:

Now, the condition of the above-written bond is such that if such licence shall be granted to the said, and if the said shall during the currency of the term of such licence (and during the currency of the term of every licence granted to him in renewal of such licence)—

- (a) Always duly apply all money received by him in the manner required by the said Act;
- (b) Always duly render accounts in writing of all money received by him within the times and to the persons required by the said Act,—

then the above-written obligation shall be void, but otherwise shall remain in full force and effect.

Signed, sealed, and delivered, etc