

## CHAPTER 342

### AUCTIONEERS ACT

*To make provision for the licensing of Auctioneers and to regulate auctioneering.*

1st June, 1991

*ACT XXV of 1990, as amended by Acts VIII of 1990 and XXVII of 2001; and Legal Notice 424 of 2007.*

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| <p><b>1.</b> The short title of this Act is the Auctioneers Act.</p>  | Short title.   |
| <p><b>2.</b> In this Act, unless the context otherwise requires:</p> <p>"antique" means a work of art or an object of a geological, palaeontological, archaeological or antiquarian importance and which is at least one hundred years old;</p> <p>"auctioneer" means a person who conducts public sales by auction but does not include an auctioneer of animals, including fish, whether alive or dead, food or agricultural produce;</p> <p>"Minister" means the Minister responsible for trade and except for the purposes of article 3(2) and article 5, includes, to the extent of the authority given, any person authorised by the Minister in that behalf for any purpose of this Act;</p> <p>"prescribed" means prescribed by regulations under this Act.</p> | Interpretation.  |
| <p><b>3.</b> (1) No person shall act as auctioneer at any auction unless he is so licensed under the provisions of this Act.</p> <p>(2) The provisions of subarticle (1) shall not apply to public sales by auction conducted under the authority of the Courts of Law, <i>il-Monti</i>, or any other public institution or department authorised by the Minister to that effect.</p>   | Auctioneers.   |
| <p><b>4.</b> (1) A licence to act as an auctioneer may be granted by the regulatory authority under the <a href="#">Trading Licences Act</a> under such conditions as may be prescribed.</p> <p>(2) Such licences shall be valid for the year of issue and may be renewed for further periods of one year each ending on 31st December of the year of renewal.</p>  | Licences to be issued by Minister.<br><i>Amended by: XXVII. 2001.33. Cap. 441.</i> |
| <p><b>5.</b> The Minister may make regulations for the better carrying out of any of the provisions of this Act and in particular may make regulations -</p> <p>(a) regulating the business of auctioneers;</p> <p>(b) prescribing the fees chargeable for the grant or renewal of licences issued to auctioneers;</p> <p>(c) prescribing the fees or commissions that may be chargeable by auctioneers;</p> <p>(d) prescribing the age and other qualifications for eligibility to obtain a licence under this Act;</p> <p>(e) prescribing the registers, books, accounts and records</p>  | Power to make regulations.   |

that shall be kept by auctioneers, the form and manner in which such documents shall be kept, and providing for inspections thereof;

- (f) prescribing the requirements of notices of auctions;
- (g) providing for inspections of any premises used by auctioneers for or in connection with their business;
- (h) prescribing the duties of auctioneers and the notices to be given by them in respect of any antique to be sold by auction;
- (i) prescribing any other matter that may be necessary for giving effect to the provisions of this Act.

Offences and penalties.  
Amended by:  
VIII. 1990.3;  
L.N. 424 of 2007.

**6.** Any person who contravenes any of the provisions of this Act or any regulation made thereunder, or infringes any condition imposed in any licence under this Act shall, unless the act constitutes a more serious offence under any other law, be guilty of an offence against this Act and shall for each offence be liable on conviction by the Court of Magistrates, to a fine (*multa*) of not less than one hundred and sixteen euro and forty-seven cents (116.47) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69); and the court may, in addition to such penalty, order the suspension or revocation of any licence granted under this Act or that such offender be disqualified temporarily or permanently from holding any such licence.

Liability of auctioneer for articles placed in his custody.

**7.** An auctioneer shall be responsible for the safe and proper keeping of any article placed in his custody with him for sale by auction, from the time it is passed into his custody by the seller until the time it is collected from him by a buyer or returned to the seller if unsold, and shall make good any breakage, damage or loss of any such item occurring during the time that it is in the custody of the auctioneer, if such breakage, damage or loss has occurred due to the auctioneer's negligence, imprudence or omission.

Auctioneer's responsibility in respect of description of goods to be sold by auction.

**8.** (1) An auctioneer shall be responsible for the correctness of the contents of any catalogue used for the purpose of an auction and for the correctness of any description of the goods to be sold by auction which he may give even verbally during an auction.

(2) Without prejudice to any civil or other liability of the auctioneer if within a period of one month from the last day of the auction an item sold at an auction is found to be not according to the description shown in the catalogue or otherwise given by the auctioneer, the auctioneer shall on a request by the buyer refund to the buyer the full amount paid for the article together with any fee or commission that may have been paid by the buyer. An action by a buyer who shall have made a request to an auctioneer within the time mentioned in this subarticle, to enforce the rights granted to him by this subarticle, must be brought not later than three months from the date of the said request, which term may not be interrupted or suspended.

Other laws.

**9.** The provisions of this Act shall not be deemed to exempt any person from any requirement or liability imposed by or under any other law.

**10.** (1) Any auctioneer who is licensed under the Auctioneers Law\* on the coming into force of this Act and any person who has been working with a licensed auctioneer continually and exclusively in the business of auctioneering for a period of at least five years immediately preceding the coming into force of this Act shall be deemed to be in possession of a licence under this Act, and unless such licence expires at an earlier date it shall be deemed to expire on the 31st day of December, 1990. Savings.

(2) Article 4 of the Auctioneers Law\* and the Tariff^ annexed to that Law shall, until new fees are prescribed in accordance with this Act, continue to apply to sales by auction.

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\*Repealed by this Act.

^Article 4 and the Tariff of the Auctioneers Law are reproduced hereunder (as updated by Legal Notice [424 of 2007](#)):

4. All licensed auctioneers shall, on sales by public auction, receive such fees as are set out in the Tariff annexed to this law.

#### TARIFF

Fees payable to licensed Auctioneers in respect of sales by Public Auction

1. On sales of goods and property in general, other than the furniture, goods and property mentioned in No. 2:

From the seller ..... one-half per cent

From the buyer ..... one-half per cent.

2. On sales of household furniture, and of any other goods or property which may be included in the same catalogue with household furniture:

From the seller ..... one-half per cent

From the buyer ..... one-half per cent.

3. For goods bought in for account of the owner, no charge is to be made.

4. Nevertheless, in each of the cases under No.1, 2 and 3 of this Tariff, when the time or place of sale is not left to the auctioneer's discretion, he shall be entitled to a minimum remuneration of one euro and sixteen cents (1.16) for each fore or after noon's attendance; and, where his attendance is specially engaged to attempt or make a sale, such remuneration must be paid or made up to him by the owner of the property, if no sale shall have been effected, or if the fees due by both parties shall not amount cumulatively to the said remuneration. In case of sales requiring more than one attendance, the minimum shall be computed on the average of the total amount of the fees.

5. When, by mutual agreement, the auctioneer shall engage to collect the proceeds of the property sold, the extra charge (if any) is not to exceed one-half per cent in the case of the things mentioned in No. 1, or one per cent in the case of the things mentioned in No. 2 of this Tariff.

6. Where an auctioneer agrees to receive into his own premises articles for sale by auction, no charge for store-rent shall be made, if the articles are actually sold; but if they are brought in for account of the owner, the auctioneer shall be entitled to a remuneration not exceeding one-half per cent on the last bid, provided that the articles are withdrawn by the owner within seven days after the day on which they were put up for sale; but if left beyond that time, or if, at the request of the owner, the articles shall not have been put up for sale, the auctioneer shall be entitled to a fair charge having regard to the place and time occupied.