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CHAPTER 224.

AUCTIONEERS.

An Ordinance to consolidate and amend the law relating to auctioneers in this Colony.

[30TH DECEMBER, 1895.]

20 of 1895.
4 of 1903.
32 of 1908.
14 of 1909.
6 of 1920.
Sec. 6 of
12 of 1924.
25 of 1931.
5 of 1932.
15 of 1953.

Short title.

1. This Ordinance may be cited as the Auctioneers Ordinance.

Interpretation.

2. Every person, who sells or offers for sale any real or personal property or any interest therein at any sale or roup, where any person becomes or may become the purchaser of the same by competition and being the highest bidder, either by being the sole bidder or increasing upon the biddings made by others, or decreasing on sums named by the auctioneer, or person acting as auctioneer, or other person at such sale, or other mode of sale by competition, shall be deemed to carry on the business of an auctioneer.

Licensing of auctioneer.

3. Whosoever carries on the business of an auctioneer without having a licence in force authorising him to do so, as by this Ordinance directed, shall be liable for each offence to a fine not exceeding fifty pounds.

Persons selling property mentioned in schedule not to take out licence.

4. Notwithstanding anything in this Ordinance contained, it shall not be necessary for any person selling any property by auction in any of the cases mentioned in Schedule B to this Ordinance to take out a licence.

Saving.

5. The persons mentioned in Schedule B and all other public officers and persons acting under their direction or authority shall be discharged and freed from all suits, prosecutions, liabilities, pains and penalties to which they or any of them are, or might be liable, for or on account of any sale by way of auction or competition heretofore made or conducted by or before them or any of them in the execution or supposed execution of their duty or office:

Provided that nothing herein contained shall be deemed to authorise any person to sell by auction without a licence save in the due execution of his office in the cases mentioned herein.

6. All applications for licences shall be made in writing to the Accountant General, and every person applying for a licence other than a licence which shall be available only in the Sherbro Judicial District (in which case the sum payable shall be five pounds only) shall at the same time pay to the Accountant General the sum of ten pounds sterling in respect of such licence, which amount, in case such application shall be refused, the Accountant General shall forthwith on demand repay to the person who paid the same without any deduction whatsoever.

Applications
for licences.

7. (1) Every licence shall be in the form set forth in Schedule A to this Ordinance and shall be granted by the Accountant General:

Form and
granting of
licences.

Provided that in the case of a licence which shall be available only in the Sherbro Judicial District, there shall be inserted after the words "as an auctioneer" in the said form the words "in the Sherbro Judicial District."

(2) Before granting any licence the Accountant General shall make such enquiries as he shall consider requisite for ascertaining that the party proposed to be licensed is a fit and proper person to be so licensed, and may refuse any licence without assigning any reason to the applicant:

Licences may
be refused.

Provided that any person to whom a licence has been refused may represent his case to the Governor, who may direct a licence to be granted to him if satisfied that he is a fit and proper person, or may withhold the licence or direct further examination and enquiry.

8. (1) Before the licence is granted the applicant shall enter into security by bond, himself in the sum of two hundred pounds and two sureties to be approved of by the Accountant General in the sum of one hundred pounds each, jointly and severally, to answer for the faithful discharge of his office. Such bond shall be in the form set forth in Schedule C to this Ordinance:

Security.

Provided that it shall be lawful for the Accountant General to accept, in lieu of the security aforesaid, security by deposit in the public chest of any sum not more than the sum required to be secured by bond as aforesaid, nor less than half of that sum.

(2) If it shall appear to the Accountant General that the security of any auctioneer is or has become insufficient, he shall call upon the auctioneer to give sufficient security, and if he fails to do so within one month, the Governor may, on the report of the Accountant General, suspend the licence of such auctioneer until sufficient security has been given.

Duration of
licences.

9. Every licence under this Ordinance shall have effect from the date of the granting thereof till the close of the thirty-first day of December of the year in which any such licence may have been granted.

Whenever an Order suspending a licence is made, the licence shall cease to be of any effect during the term of suspension, and whenever the licence is revoked the licence shall cease to have any effect whatsoever.

Auctioneers
to accept the
sale of all
property
offered by
owners.

10. Every auctioneer shall, on the requisition of the owner thereof, accept the sale of all property which may be supplied to him for sale at the place in which he carries on his ordinary business as an auctioneer, and shall sell the same within such time as the owner may require, or as soon thereafter as possible, having regard to the sale of other property with which he has been entrusted:

Provided that he shall not be bound to sell such property sooner than seven days after he shall have accepted the sale thereof.

Nothing herein shall be held to restrict any auctioneer from selling at the same sale the property of more than one owner, so as the goods are lotted consecutively and in such manner that no owner's goods may become mixed with the goods of any other owner.

Notice,
catalogue,
etc.

11. (1) Two days before any sale by auction shall take place, notice thereof in writing, together with a catalogue of the real or personal property to be sold, shall be delivered in the Freetown Police District to the Commissioner of Police, elsewhere to the District Commissioner of the district in which the sale is to take place, specifying the place and time at which such sale begins, and within seven days after such sale shall have terminated a complete account of the sale, verified by declaration of the auctioneer, made before a Justice of the Peace, shall be delivered to the said Commissioner of Police or the said District Commissioner, as the case may be, specifying the price at which each lot shall have been sold.

(2) No sale by auction shall take place unless three of the said catalogues have been posted up in three public and conspicuous places and unless further notice of sale be given by ring of bell through the town on the day of sale.

(3) If any auctioneer shall omit to deliver such notice, catalogue and account as aforesaid or neglect to give such

notice of sale at last aforesaid, he shall for each offence incur a penalty not exceeding twenty pounds.

(4) Any person who shall wilfully make any false declaration concerning any such account or its subject matter, or any part thereof, shall be guilty of perjury and be liable to be prosecuted and punished accordingly.

False statement perjury.

12. Every auctioneer, before beginning any auction, shall affix or suspend, and during the whole of such auction keep affixed or suspended in some conspicuous part of the room or place where the auction is held, a ticket or board containing his true and full name and residence painted, printed or written in large letters publicly visible and legible. If any auctioneer fail to comply with this enactment, he shall be liable for every such offence to a penalty of five pounds.

Publication at sale of auctioneer's name and address.

13. (1) It shall be stated in the particulars or conditions of sale by auction of any real or personal property whether such sale will be without reserve or subject to a reserve price, or whether a right to bid is reserved.

Sales without reserve, etc.

(2) If it is stated that the sale will be without reserve or to that effect, then it shall not be lawful for the seller or any person on his behalf or employed by him to bid at such sale, or for the auctioneer to take knowingly any such bidding.

Where without reserve.

(3) If it is stated that the sale will be subject to a reserved price as regard any one or more of the lots, it shall be lawful for the seller or any person employed by him to give one bid for each such lot and no more, which bid shall be openly declared at the auction upon the lot being put up for sale, before any other bidding for such lot is received.

Where subject to reserve price.

(4) If it is stated that the sale will be subject to a right for the seller to bid, it shall be lawful for the seller or for any one person on his behalf, but not more than one, to bid at such auction in such manner as he shall think proper.

Where right to bid reserved.

(5) If the seller or any person employed by him or on his behalf shall bid at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfil his purchase, but the highest *bona fide* bidder shall be entitled, if he shall so elect, to have the real or personal property at the price offered by him.

Consequence of seller bidding in preceding cases.

(6) Any auctioneer who shall knowingly receive any bidding contrary to any of the provisions of this section, shall be liable to a penalty not exceeding fifty pounds.

Penalty on auctioneer.

Recovery of purchase money by auctioneer.

14. The auctioneer making any sale by auction shall (unless it be agreed otherwise between him and the seller) be entitled to sue for, recover and discharge all sums due in respect of such sale.

The auctioneer shall (unless it be agreed otherwise between him and the seller) be liable for the due payment to the seller of the net proceeds of all sales of property within ten days from the time of sale of such property.

Employment does not authorise private sale.

15. The employment of any auctioneer to sell by public auction does not authorise him, in case the public auction proves abortive, to sell the property by private contract.

Remuneration in general.

16. (1) The remuneration of any auctioneer for selling any property by auction shall in no case exceed five pounds per centum on the gross amount of such sale.

Where property bought in.

(2) If any property exposed for sale is bought in by or on behalf of the owner the remuneration of the auctioneer shall not exceed three pounds per centum on the amount at which the same has been bought in, if the said amount be under one hundred pounds, or two pounds per centum if above that sum.

Agreements for higher rates void.

(3) No agreement to pay or allow any higher rates than in this section mentioned shall be binding, and any auctioneer who shall receive or retain out of the proceeds of any sales any higher rates shall be liable to a penalty of twenty pounds.

Penalty to be levied.

17. For the better enforcement of this Ordinance the Magistrate, before whom information shall be laid of any violation of its provisions, shall be and is hereby authorised and required to summon before him any alleged offender, and any person or persons supposed to be competent to prove the offence, and to levy any penalty imposed by this Ordinance by distress and sale, and for want of effects to commit every such offender to the common gaol for any term not exceeding six calendar months.

Suspension or revocation of licence.

18. (1) The Court convicting an auctioneer of any offence against the provisions of this Ordinance may, in lieu of or in addition to any other penalty to which he may be liable, make an order suspending or revoking his licence, and his licence shall be suspended or revoked accordingly.

(2) Every such order of suspension or revocation shall forthwith be reported to the Accountant General.

19. (1) It shall be lawful for a Judge of the Supreme Court, upon an *ex parte* motion—

Enforcement
of bond.

(i) by the Attorney General, alleging a breach of any of the conditions of an auctioneer's bond, or

(ii) by any person or persons alleging a breach of any such conditions whereby such person or persons has or have suffered loss or damage,

to issue a summons to the auctioneer and his sureties calling upon them to show cause why the said bond should not be enforced against them on the grounds set forth in the affidavit in support of the motion.

(2) If upon the hearing of the said summons, the Judge shall give judgment in favour of the Attorney General or other applicant, he may—

(a) order payment of the sum of money secured by the said bond in whole or in part, the proceeds of the enforcement of such order to accrue to the general revenue of the Colony; or

(b) order payment of such part of the sum of money secured by the said bond as he shall find to be due to the aggrieved party or parties by way of debt, damages, costs or expenses; or

(c) order payment of the whole of the sum of money secured by the said bond and, after deducting all costs and expenses, make such division of the proceeds of the enforcement of such order between all persons who shall be proved to have suffered loss or damage by reason of the breach of any of the conditions of the said bond as to him shall seem just. Any balance remaining over after such deduction and division as aforesaid to accrue to the general revenue of the Colony.

20. In case an auctioneer shall have given security by deposit in the public chest in lieu of a bond, the sum so deposited shall be liable to be dealt with in the same manner as that provided in regard to the sum of money secured by an auctioneer's bond by section 19 (omitting therefrom all reference to sureties and substituting for the expression "a breach of any of the conditions of an auctioneer's bond" the expression "a breach of any of the provisions of this Ordinance").

Enforcement
of security by
deposit.

SCHEDULE A.

Sec. 7.

LICENCE TO OFFICIATE AS AN AUCTIONEER.

No.....

Licence is hereby granted to.....to officiate as an auctioneer under the provisions of the Auctioneers Ordinance.

Amount paid £

This licence expires on the.....day of.....on which date it is to be returned to this office.

Given under my hand and seal of office at Freetown, Sierra Leone, this.....day of.....19.....

.....
Accountant General.

Sec. 5.

SCHEDULE B.

- | | |
|--|---|
| 1. Sheriffs and Under - Sheriffs, their officers, deputies and assistants; Bailiffs and other officers of court. | 1. In the execution of any process of court or law in the ordinary course of their employment as such officers. |
| 2. Pound Keepers. | 2. In selling any animals or carcasses of animals which have become liable to forfeiture or sale under the provisions of any law or ordinance relating to the keeping or impounding of animals. |
| 3. The Commissioner of Police or other officer appointed by him for the purpose. | 3. In selling lost or stolen property remaining unclaimed in the hands of the police, the estimated value of which in the aggregate does not exceed ten pounds at any one sale. |
| 4. The Director of Prisons or other officer appointed by him for the purpose. | 4. In selling articles taken from prisoners and remaining unclaimed, the estimated value of which in the aggregate does not exceed ten pounds at any one sale. |
| 5. The person for the time being administering the office of Receiver of Wrecks. | 5. In respect of any sale by him by virtue of his office as Receiver of Wrecks. |

SCHEDULE C.

BOND.

Sec. 8 (1).

KNOW ALL MEN BY THESE PRESENTS that I.....of.....in the Colony of Sierra Leone, auctioneer, am bound to our Sovereign Lady the Queen, her heirs and successors, in the sum of two hundred pounds of good and lawful money of the said Colony, and that we.....of.....and.....of.....in the said Colony are each of us bound to our said Sovereign her heirs and successors in the sum of one hundred pounds of such good and lawful money as aforesaid, for payment of which said sum of two hundred pounds I the said.....bind myself and my heirs, executors and administrators by these presents, and for payment of which said sum of one hundred pounds we the said.....and the said.....bind ourselves and each of us, and our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this.....day of.....19.....

WHEREAS the above-bounden.....has applied for a licence under the Auctioneers Ordinance, to authorise him to officiate as an auctioneer under the provisions of the said Ordinance from the.....day of.....19....., till the.....day of.....next thereafter, and the said application has been approved, and the above-bounden.....have also been approved as the sureties of the said.....

NOW, THEREFORE, the conditions of this obligation are such, that if the above-bounden.....do and shall, in all things, conform to all and every of the provisions contained in the said Ordinance, and do and shall conduct himself honestly, faithfully, and uprightly, in the office of auctioneer during the period of his licence, then this obligation to be null and void, otherwise to remain in full force and virtue.

SIGNED, sealed and delivered at the }
 Accountant General's Office, }
 Freetown, the day and year }
 above written in the presence of }

