



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 14 of 1972

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

[Assented to 30th March, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Mock Auctions Act, 1972". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. In this Act, unless the contrary intention appears— Interpretation.
 - "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 articles for the time being prescribed as being articles 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 be 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.

**Prohibition on
mock auctions.**

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.

Penalty: One thousand dollars.

(2) For the purposes of this section and subject to subsection (3) of this section 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 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) A sale of goods shall not be a mock auction by virtue of paragraph (a) of subsection (1) of this section if it is proved that the reduction in price or the 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. Where a person charged with an offence against this Act is a body corporate, a person who is concerned or takes part in the management of the body corporate may be charged with a like offence and where the body corporate is convicted of the offence a person who is so concerned or takes part in the management of the body corporate may be convicted of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Offences by
bodies
corporate.

6. Nothing in this Act shall derogate from any right of action or other remedy, whether civil or criminal, in proceedings instituted otherwise than under this Act.

Savings of
other remedies
or actions.

7. Proceedings for offences against this Act shall be disposed of summarily.

Summary
proceedings.

8. (1) The Governor may make such regulations as are necessary or expedient for the purposes of giving effect to the provisions and objects of this Act.

Regulations.

(2) Without limiting the generality of subsection (1) of this section, the regulations may—

(a) prescribe any articles or articles of a class to be articles to which this Act applies;

and

(b) provide for and prescribe penalties not exceeding in each case two hundred dollars for a breach of any provisions of the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor