

Seychelles

Auctioneers and Appraisers Act

Act 6 of 1892

Legislation as at 30 June 2012

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Seychelles

Auctioneers and Appraisers Act

Act 6 of 1892

Commenced on 12 July 1892

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

[Act 6 of 1892; Act [12 of 1920](#); Act [21 of 1955](#); Act [14 of 1963](#); Act [15 of 1974](#); Act [95 of 1975](#); Act [23 of 1976](#)]

1. Short title

This Act may be cited as the Auctioneers and Appraisers Act.

2. Auctioneers and appraisers to be appointed

There shall be appointed for Seychelles public valuers and appraisers and sellers of movable effects, who shall be styled auctioneers and appraisers.

3. Appointment by Minister

Auctioneers and appraisers shall be appointed by the Minister.

4. Security to be furnished. Amount and nature of security

Within eight days of his appointment every auctioneer and appraiser shall furnish security before a Judge, in the sum of ten thousand rupees either by way of mortgage, or by two solvent sureties, or by the bond of any guarantee company approved by the Government.

5. Oath of office to be taken

After furnishing security every auctioneer and appraiser shall take the oath of office in the manner prescribed by the Official Oaths Act.

6. Auctioneers to enjoy exclusive privilege of making voluntary sales by public auction

- (1) Auctioneers and appraisers appointed under this Act shall enjoy the exclusive right and privilege of making voluntary sales by public auction of all goods, chattels, wares and merchandise of every description
- (2) They shall have the right of selling by private sale all goods, chattels, wares and merchandise of every description deposited with them specially for that purpose by the owner thereof.

7. Auctioneers may make forced sales of movables

They shall enjoy concurrently with the other public officers, the privilege of making such sales of movables and personal effects as may become necessary on the occurrence of deaths or bankruptcies, or in execution of distrains or judgments of the courts of justice.

8. Auctioneers to have exclusive right of appraising movables prior to public sale thereof

Their duties shall extend, to the exclusion of all other persons, to the valuing and appraising of all movable goods and effects intended to be exposed to public sale or auction, whether such appraisalment be made at the request of parties or after decease, as well as in all cases where the law requires it, or it be judicially ordered.

9. Auctioneers to have privileges of notaries, etc., as to sales made under this Act

They shall enjoy the same privileges as notaries, registrars and bailiffs or ushers in regard to all sales made by them within the limits of the powers conferred by this Act.

10. Penalty in case of voluntary sale made by unauthorised person. Exception in case of merchants selling wholesale goods

Any person not being a duly appointed auctioneer, whether he be a private individual or a public officer who shall make any voluntary sale of goods, chattels, wares or merchandise by public auction shall be liable to a fine which shall not exceed one-fourth of the price of the articles sold without prejudice to any penalties for breach of the licence laws.

The above enactment is not applicable to sales of wholesale goods, wares, merchandise or colonial produce, between merchants and traders according to the usage of trade.

11. Auctioneers may receive declarations concerning sales

It shall be lawful for auctioneers and appraisers to receive all declarations relative to such sales as shall have been announced by them, to receive all oppositions lodged against such sales, to submit to the competent authority all references to which their operations may give rise, and to that effect to cite before such authority the parties interested.

12. Declarations to be made at Registration office before sale

- (1) No auctioneer shall make a public sale of movable articles unless he shall have made a declaration of his intention at the Registration office at latest at noon on the day preceding the sale. Every such declaration shall contain the name, description and place of business of the auctioneer, and of the person at whose request the sale is to be made, the name of the person for whose account the articles are to be sold, a detailed description item by item of the articles to be sold and indication of the place and day of the sale.
- (2) When movable articles have been deposited with an auctioneer for private sale, he shall within two days from such deposit file at the Registration office a similar declaration but without specifying the day of sale.

13. Commission

- (1) There shall be allowed to auctioneers on the proceeds of sales made by them a commission of five *per centum* on the first Rs2,500 and three *per centum* on the remainder.
- (2) If a reserve price is placed on any article by the vendor and the article is withdrawn after biddings have been called for, because such price has not yet been reached, the auctioneer shall be entitled to claim one and one-half *per centum* upon the said reserve price.
- (3) If no reserve price has been fixed before the sale and the article is withdrawn by the vendor at the sale before adjudication, the auctioneer shall be entitled to three *per centum* on the amount of the last bid received before the article was withdrawn. The mention of such last bid on the auctioneer's memorandum of sale shall be sufficient proof thereof.
- (4) It shall not be lawful for any auctioneer to charge any other fee or commission except for the registration fees on any sale, and any other necessary expenses which the owner shall agree to in writing.

14. Book of sales to be kept by auctioneer

- (1) All auctioneers and appraisers shall keep a book in which they shall daily enter a statement of sales. Such book shall be composed of stamped paper and before it is used the leaves thereof shall

be initialled and numbered by the Registrar of the Supreme Court. Such book shall be closed and settled quarterly by the Registrar of Deeds.

- (2) Notwithstanding the provisions of paragraph (b) of section 64 of the Mortgage and Registration Act, the registration fees payable under the said Act on private sales by auctioneers shall be paid quarterly at the time the auctioneer's book of sales is closed and settled; and the auctioneer shall at the same time produce and file with the Registrar a memorandum of such private sales and pay the fees thereon.

15. Auctioneers to take out a licence

No auctioneer and appraiser shall practice as shall until he shall have taken out a licence in accordance with the Licences Act. Such licence shall be delivered to him under that Act upon production of his commission or letter of appointment and certificate of his having furnished security, and upon payment of such duty as may be chargeable under that Act.

16. Failure to take out or renew licences tantamount to resignation

Any auctioneer who shall fail to take out a licence within eight days from the date of his furnishing security, or who shall fail to renew his licence within eight days from the date of its expiry shall be deemed to have resigned his appointment, and his commission or letter of appointment, as may be, shall be cancelled, and shall be returned to the Minister.

17. Penalty for not returning commission or letter of appointment within a certain time

Any auctioneer failing to return his commission or letter of appointment within fifteen days from the expiry of the above mentioned period, shall be liable upon prosecution before the court to a fine not exceeding one hundred rupees.

18. Auctioneers under supervision of the Minister

Auctioneers and appraisers shall be under the supervision of the Minister in regard to their conduct as such, and their books shall be open to inspection during office hours by such officer or officers as the Minister may appoint for that purpose.

19. Auctioneer may be prosecuted for misconduct

If any auctioneer and appraiser misbehaves in connection with the duties of his office, it shall be competent for the Minister to direct that proceedings be taken against him before the Supreme Court and it shall be competent for any person aggrieved by such misbehaviour to enter such proceedings. Such proceedings shall be by plaint with summons to show cause and if directed by the Minister may be entered by any officer duly authorised for that purpose by him, and it shall be lawful for the court, if satisfied that such auctioneer has been guilty of dishonest or dishonourable conduct in the exercise of his functions or in connection therewith to suspend or cancel his commission, without prejudice to any prosecution and penalties to which such auctioneer may be liable for breach of any particular laws or regulations.

20. Auctioneers may not refuse to make sales when requested by *bona fide* persons

It shall not be lawful for any auctioneer to refuse to make any sale when requested to do so by any *bona fide* person.

Any refusal on the part of an auctioneer to make any sale shall be deemed an act of misconduct and may, upon plaint by any interested party, or by direction of the Minister in lead to the suspension or cancellation of his commission.

21. Auctioneers not to purchase articles sold by themselves

It shall not be lawful for any auctioneer to purchase directly or indirectly, in his own name, or through a prête nom or as agent for any other person, any article at a sale made by himself. Any infraction of this section shall upon complaint and proof made by direction of the Minister or at the suit of any interested party before the Supreme Court entail the cancellation of the auctioneer's commission.

22. Auctioneer not to sell articles for himself or family

It shall not be lawful for any auctioneer to make any sale of goods which are his own property, or the property of his wife or of any relative in the ascending or descending line, under penalty of cancellation of his commission, upon complaint before the Supreme Court.

23. Auctioneers must keep open office

Every auctioneer shall keep an office which shall be distinct from any other business and shall be open from 10 to 4 daily excepting holidays and Saturdays, on which latter day it shall be open from 10 to 1, and he shall further keep a book in which all applications for sales to be made by him shall be entered in the order in which they are made.

24. Biddings to be *viva voce*

All biddings at public sales shall be made *viva voce* in an audible tone. No biddings shall be received by signs, nor shall any auctioneer take into account any written biddings that may have been addressed to him before or which may be addressed to him at the time of the sale.

25. Bidder must be present at sale

No adjudication shall be made in favour of any person not actually present at the sale; but any agent purchasing for a person not present may state that he does so purchase and the articles may be adjudged to him in his capacity as agent:

Provided that in all such cases, the agent shall be personally responsible for the payment of the price.

26. Adjudication not compulsory if bidder's ability to pay doubtful

No auctioneer shall be obliged to adjudge any article to a person whose ability to pay the amount of his bidding appears to him doubtful. In any such case it shall be lawful for the auctioneer to require such person to deposit the price before finally knocking the article down to him.