



Auctioneers Act 2013

Public Act 2013 No 148
Date of assent 17 December 2013
Commencement see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Auctioneers Act 2013.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose of Act

This Act provides for the registration of auctioneers and for related matters, and repeals the Auctioneers Act 1928.

4 Interpretation

- (1) In this Act, unless the context otherwise requires,—

auction means a process in which property of any kind (including goods, services, and interests in land) is offered for sale by an auctioneer on behalf of a vendor, and—

- (a) bids for the property are placed with the auctioneer in real time, whether in person, by telephone, via the Internet, or by any other means; and
- (b) the property is sold when the auctioneer so indicates

chief executive means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

person concerned in the management of a company means—

- (a) a director of the company, as that term is defined in section 126 of the Companies Act 1993;
- (b) the chief executive of the company, or any person occupying the equivalent position

register means the register of auctioneers maintained by the Registrar under section 21

registered auctioneer means an individual or a company that is registered under this Act as an auctioneer

Registrar means the Registrar of Auctioneers appointed under section 19

vendor, in relation to an auction, means the person whose property is offered for sale by an auctioneer.

- (2) To avoid doubt, a process of selling property is not necessarily an auction for the purpose of this Act just because it is described as an auction. For example, a process described as an Internet auction, but that provides that any contract of sale resulting from the process is a contract directly between the winner of the bidding and the seller of the property, is not an auction for the purpose of this Act.

Registration requirements

5 Registration of person carrying on business as auctioneer

- (1) A person must not carry on business as an auctioneer unless the person is registered under this Act as a registered auctioneer.
- (2) Subsection (1) is subject to the exceptions provided in—

- (a) sections 48 and 49 of the Real Estate Agents Act 2008; and
 - (b) section 141 of the Motor Vehicle Sales Act 2003; and
 - (c) any other enactment.
- (3) A person **carries on business as an auctioneer** if the person, in trade, charges a fee or commission for, or requires the payment of any part of the proceeds of, a sale by auction, other than as an employee or agent of a registered auctioneer.

Section 5(2)(a): amended, on 8 September 2018, by section 87(2) of the Statutes Amendment Act 2018 (2018 No 27).

6 Disqualification from registration

- (1) A person who is an individual is disqualified from registration if he or she is—
- (a) under 18 years of age; or
 - (b) an undischarged bankrupt; or
 - (c) a person whose registration under this Act has been cancelled within the preceding 5 years; or
 - (d) prohibited from being a director of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment or order made under any enactment; or
 - (e) a person who has been convicted of a crime involving dishonesty within the preceding 5 years; or
 - (f) a person who has been convicted, within the preceding 5 years, of—
 - (i) an offence against section 40 of the Fair Trading Act 1986 for contravention of any provision of Part 1 or subpart 4 of Part 4A of that Act; or
 - (ii) an offence against section 24 of this Act; or
 - (g) subject to an order suspending or cancelling a licence under section 110 of the Real Estate Agents Act 2008; or
 - (h) banned, or subject to a banning order, under section 68 or 69 of the Motor Vehicle Sales Act 2003; or
 - (i) subject to a property order made under section 30 or 31 of the Protection of Personal and Property Rights Act 1988.
- (2) A company is disqualified from registration if—
- (a) a person concerned in the management of the company is disqualified from registration under subsection (1); or
 - (b) the company's registration under this Act has been cancelled within the preceding 5 years; or
 - (c) the company has been convicted, within the preceding 5 years, of—

- (i) an offence against section 40 of the Fair Trading Act 1986 for a contravention of any provision of Part 1 or subpart 4 of Part 4A of that Act; or
- (ii) an offence against section 24 of this Act; or
- (d) the company is subject to an order suspending or cancelling a licence under section 110 of the Real Estate Agents Act 2008; or
- (e) the company is banned, or subject to a banning order, under section 68 or 69 of the Motor Vehicle Sales Act 2003; or
- (f) the company is in liquidation, receivership, or voluntary administration; or
- (g) the name of the company has been removed from the register of companies kept under section 360(1)(a) of the Companies Act 1993.

Compare: 2003 No 12 ss 24, 25

Restriction on who registered auctioneers may engage as auctioneer

7 Restriction on who registered auctioneers may engage as auctioneer

A registered auctioneer must not engage an auctioneer to conduct a sale on the registered auctioneer's behalf if the auctioneer is disqualified from registration under section 6(1).

Application for registration

8 Application for registration to carry on business as auctioneer

- (1) A person who wishes to carry on business as an auctioneer may apply to the Registrar, in accordance with this Act, for registration as a registered auctioneer.
- (2) Every application must—
 - (a) be in the form (if any) prescribed by the Registrar; and
 - (b) include the information and material specified in section 9; and
 - (c) include the prescribed fee (if any).

Compare: 2003 No 12 s 31

9 Information and material to be included in application

- (1) Every application for registration by an individual must set out or be accompanied by the following:
 - (a) the person's full name, residential address, and date of birth; and
 - (b) the trading name, or proposed trading name, of the applicant's auction business; and
 - (c) the address of the principal place at which the applicant carries on, or proposes to carry on, business as an auctioneer; and