

AUSTRALIAN CAPITAL TERRITORY.

No. 2 of 1959.

AN ORDINANCE

Relating to Auctioneers.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this sixteenth day of March, 1959.

W. J. SLIM

Governor-General.

By His Excellency's Command,

GORDON FREETH

Minister of State for the Interior.

AUCTIONEERS ORDINANCE 1959.

1. This Ordinance may be cited as the *Auctioneers Ordinance 1959*.* Short title.

2. The Ordinances specified in the First Schedule to this Ordinance are repealed. Repeal.

3.—(1.) In this Ordinance, unless the contrary intention appears— Interpretation.

“auctioneer” means a person who sells by auction or offers for sale by auction;

“licence” means a licence issued under this Ordinance;

“the Clerk” means the Clerk of the Court, and includes the Deputy Clerk of the Court;

“the Commissioner of Police” means the person holding office as Commissioner of Police under the *Police Ordinance 1927-1958*;

“the Court” means the Court of Petty Sessions of the Territory.

* Notified in the *Commonwealth Gazette* on 25th March, 1959.

(2.) For the purposes of this Ordinance, a sale by auction is a public sale of property whereby—

- (a) the highest, the lowest or the only bidder is the purchaser;
- (b) the first person who claims property submitted for sale at a previously nominated price is the purchaser; or
- (c) there is a competition for the purchase of property in any way commonly known and understood to be by way of auction.

(3.) A reference in this Ordinance to a form by letter shall be read as a reference to the form so lettered in the Second Schedule to this Ordinance.

Auctioneers to be licensed.

4.—(1.) Subject to the next succeeding sub-section, a person shall not carry on the business of an auctioneer unless he is the holder of a licence.

(2.) For the purpose of the last preceding sub-section—

- (a) the sale by auction of any property taken in execution by an officer of a Court;
- (b) the sale by auction by a person thereto authorized by the Minister of any property belonging to the Commonwealth or to an intestate estate;
- (c) the sale by auction of unclaimed property by a person authorized under or in accordance with a law in force in the Territory; or
- (d) the sale by auction by a poundkeeper appointed under the *Pounds Ordinance* 1928-1937 of any cattle, as defined by that Ordinance, impounded in a public pound,

shall not be deemed to be the carrying on of the business of an auctioneer.

Applications for licences.

5.—(1.) A person who has attained the age of twenty-one years may apply to the Court for a licence.

(2.) An application for a licence shall be in accordance with Form A and shall be lodged, together with a copy of the application, with the Clerk.

New licences.

6.—(1.) Where an application for a licence is lodged with the Clerk (not being an application to which the next succeeding section applies) the Clerk shall forthwith—

- (a) appoint a date for the hearing of the application by the Court, being a date not earlier than twenty-one days after the date on which the application is lodged with the Clerk; and

- (b) endorse on the copy of the application a notice stating the date so fixed and return the copy to the applicant.

(2.) The applicant shall—

- (a) within twenty-four hours after lodging the application with the Clerk lodge with the Commissioner of Police the copy of the application on which the Clerk has made the endorsement referred to in paragraph (b) of the last preceding subsection; and
- (b) not later than fourteen days before the date appointed for the hearing of the application, cause to be published in a newspaper circulating in the Territory notice of his application in accordance with Form B.

7.—(1.) Where—

Renewal of
licences.

- (a) a person is the holder of a licence; and
- (b) an application, in accordance with Form C, for a further licence to come into force on the expiration of that first-mentioned licence, together with a copy of the application, is lodged with the Clerk by that person before the month of June in the year in which that first-mentioned licence will expire,

the Clerk shall forthwith—

- (c) appoint a date for the hearing of the application by the Court, being a date not earlier than the fourteenth day, and not later than the thirtieth day, of that month of June; and
- (d) endorse on the copy of the application a notice stating the date so fixed and return the copy to the applicant.

(2.) The applicant shall—

- (a) within twenty-four hours after lodging the application with the Clerk lodge with the Commissioner of Police the copy of the application on which the Clerk has made the endorsement referred to in paragraph (d) of the last preceding subsection; and
- (b) cause a copy of the application to be continuously displayed in a prominent place at his place of business from the first day to the fourteenth day, inclusive, of that month of June.

(3.) The Clerk shall, on or before the seventh day of June in each year, cause to be published in a newspaper circulating in the Territory a notice in accordance with Form D—

- (a) stating the names and addresses of the persons who have made applications for licences under this section; and
- (b) stating the date or respective dates appointed for the hearing of the applications.

Commissioner of Police to furnish report on character.

8.—(1.) The Commissioner shall, after making proper inquiry and not later than five days before the date appointed for the hearing of an application, furnish to the Clerk for the use of the Court a report in writing on the character of an applicant for a licence.

(2.) An applicant for a licence is entitled to inspect any report of the Commissioner of Police furnished to the Clerk under the last preceding sub-section.

Objections to granting of licences.

9.—(1.) Subject to the next succeeding sub-section, the Commissioner of Police or any person who resides in the Territory may, upon the hearing of an application for a licence, object to the granting of the licence upon the ground that the applicant is not a fit and proper person to be the holder of a licence.

(2.) A person, including the Commissioner of Police, is not entitled to object to the granting of a licence unless, not later than seven days before the date appointed for the hearing of the application for the licence—

- (a) he files with the Clerk a notice of objection setting out particulars of the ground of his objection; and
- (b) he serves a copy of the notice on the applicant.

(3.) Where the Court is satisfied that an objection is frivolous or vexatious, the Court may order the objector to pay to the applicant an amount equal to the whole or any part of the amount by which the costs of the applicant were increased by reason of the objection.

(4.) Where, as a result of an objection, an application for a licence is refused, the Court may order the applicant to pay the whole or any part of the costs of the objector.

Granting of licences.

10.—(1.) Subject to the next succeeding section, where, upon the hearing of an application for a licence, the applicant satisfies the Court that he is a fit and proper person to be the holder of a licence, the Court may direct the Clerk to issue a licence to the applicant and the Clerk shall, upon payment of a fee of Two pounds, issue a licence to the applicant in accordance with Form E.

(2.) The Court may, on the hearing of an application for a licence, request the Commissioner of Police to make such further enquiries as the Court thinks fit and may adjourn the hearing to enable the Commissioner to make the enquiries and furnish the report.

(3.) Where the granting of a licence in pursuance of an application to which section seven of this Ordinance applies is not objected to, the application may be determined in Chambers.

11.—(1.) A licence shall not be granted to a person who is licensed to carry on the business of a pawnbroker under a law of the Territory or of any State.

Licence not to be granted in certain circumstance .

(2.) A licence shall not be granted to a person who is not resident in the Territory unless—

- (a) he is resident in a State;
- (b) he is licensed to carry on business as an auctioneer under the law of that State in the whole or any part of that State; and
- (c) under that law, a resident of the Territory holding a licence under this Ordinance may obtain a licence to carry on business as an auctioneer in the whole or any part of that State.

12.—(1.) Subject to this section and to the next succeeding section, a licence comes into force on the day on which it is issued and continues in force until the thirtieth day of June next following that first-mentioned day.

Duration of licences.

(2.) Subject to the next succeeding section, a licence granted in pursuance of an application to which section seven of this Ordinance applies comes into force on the first day of July next following the day on which the application was lodged with the Clerk and continues in force until the thirtieth day of June next following that first-mentioned day.

13.—(1.) The Court may, on the application of the Commissioner of Police, cancel a licence if the Court is satisfied—

Cancellation and suspension of licences.

- (a) that the holder of the licence is not qualified to be the grantee of a licence by virtue of section eleven of this Ordinance; or
- (b) that he is not a fit and proper person to be the holder of a licence.

(2.) Where the Commissioner of Police has applied to the Court for the cancellation of a licence, the Court may, pending the determination of the application, suspend the licence.

(3.) Where the holder of a licence is convicted of an offence against this Ordinance or the regulations, the Court may cancel the licence or suspend the licence for such period as the Court thinks fit.

(4.) Where a licence expires, is cancelled or is suspended, the holder of the licence shall forthwith deliver the licence to the Clerk.

Penalty: Twenty pounds.

Misrepresentation as to quality, &c., of property.

14. An auctioneer shall not knowingly misrepresent, or cause or permit to be misrepresented, the composition, structure, character, quality, origin or manufacture of any property offered by him for sale by auction.

Penalty: Fifty pounds.

Record to be kept by auctioneers.

15.—(1.) An auctioneer shall forthwith record, in a book to be kept by him for the purpose, full particulars of any property sold by him at auction and shall preserve the record so made in respect of any sale for a period of at least twelve months after the date of the sale.

(2.) An auctioneer shall, when at any reasonable time so requested by a member of the Police Force, produce to the member the book kept by the auctioneer for the purposes of the last preceding sub-section.

Penalty: Fifty pounds.

Bids by seller.

16. Where, under the conditions of sale relating to a sale by auction, a right to bid by or on behalf of the seller is not specified—

- (a) the seller shall not bid at the sale;
- (b) the seller shall not cause any person to bid on his behalf at the sale;
- (c) a person shall not bid on behalf of the seller at the sale; and
- (d) the auctioneer shall not knowingly take a bid from the seller or any person bidding on behalf of the seller.

Penalty: Fifty pounds.

Amendment of notices, &c., and extensions of time.

17. On the hearing of an application under this Ordinance, the Court may, for the purposes of the application, and on terms as to costs or otherwise as it deems fit—

- (a) permit the amendment of a notice, document or instrument;
- (b) if satisfied that injustice to any person will not be occasioned by so doing, disregard a defect in a notice, document or instrument; and
- (c) enlarge or abridge the time fixed by this Ordinance or the regulations for doing any act or thing, whether the application for the enlargement or abridgment is made before or after the expiration of the time so fixed.

18. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular, prescribing penalties not exceeding Fifty pounds for any offence against the regulations. Regulations.

19. Where, immediately before the date of commencement of this Ordinance, a licence granted under an Ordinance repealed by this Ordinance was in force, that licence has effect on and after that date as if it had been granted under this Ordinance on that date and continues to have effect until the next succeeding thirtieth day of June. Saving of existing licences

THE SCHEDULES.

FIRST SCHEDULE.

Section 2.

ORDINANCES REPEALED BY THIS ORDINANCE.

Auctioneers Ordinance 1927 (No. 2 of 1927).
Auctioneers Ordinance 1932 (No. 2 of 1932).
Auctioneers Ordinance 1936 (No. 46 of 1936).
Auctioneers Ordinance 1938 (No. 12 of 1938).

SECOND SCHEDULE.

FORM A.

Section 5.

AUSTRALIAN CAPITAL TERRITORY.

Auctioneers Ordinance 1959.

Application for Auctioneer's Licence.

To the Court of Petty Sessions.

I, _____, residing at _____,

and carrying on business at _____, hereby apply for a licence under the *Auctioneers Ordinance 1959*.

2. The following statement shows the addresses at which I have resided during the period of five years immediately preceding the date of this application and the period during which I resided at each of those addresses:—

..... From.../.../19..., to .../.../19...

..... From.../.../19..., to .../.../19...

3. The following statement shows the occupations that I have followed during the period of five years immediately preceding the date of this application and the period during which I followed each of those occupations:—

..... From.../.../19..., to .../.../19...

..... From.../.../19..., to .../.../19...

Dated this _____ day of _____, 19 ____.

(Signature.)

FORM B.

Section 6.

AUSTRALIAN CAPITAL TERRITORY.

Auctioneers Ordinance 1959.

I, _____ of _____, hereby give notice that I have lodged with the Clerk of the Court of Petty Sessions at Canberra an application for the grant to me of a licence under the *Auctioneers Ordinance 1959*. The application has been set down for hearing by the Court on the day of _____, 19____, at _____ o'clock in the _____ noon. Any person wishing to object to the granting of the licence is required to file a notice of objection (setting out particulars of the ground of objection) with the Clerk of the Court at Canberra, and to serve a copy of the notice on me, not later than seven days before that date.

FORM C.

Section 7.

AUSTRALIAN CAPITAL TERRITORY.

*Auctioneers Ordinance 1959.**Application for Auctioneer's Licence.*

To the Court of Petty Sessions.

I, _____, residing at _____ and carrying on business at _____, hereby apply for a licence under the *Auctioneers Ordinance 1959*.

2. I am at present the holder of a licence under that Ordinance, being a licence that expires on _____, 19____, and request that the licence hereby applied for come into force on the expiration of that last-mentioned licence.

Dated this _____ day of _____, 19____.
(Signature.)

FORM D.

Section 7.

AUSTRALIAN CAPITAL TERRITORY.

Auctioneers Ordinance 1959.

Notice is hereby given that applications have been made under section seven of the *Auctioneers Ordinance 1959* for the renewal of licences granted under that Ordinance.

The names and addresses of the applicants and the date(s) appointed for the hearing of the applications are as follows:—

Name.	Address.	Date of hearing of application.
.....
.....
.....

Any person wishing to object to the renewal of the licence granted to any of the abovementioned persons is required to file a notice of objection (setting out particulars of the ground of objection) with me, and to serve a copy of the notice on the applicant, not later than seven days before the date of hearing of the application.

Dated this _____ day of _____, 19____.
Clerk of the Court of Petty Sessions
at Canberra.

FORM E.

Section 10.

AUSTRALIAN CAPITAL TERRITORY.

*Auctioneers Ordinance 1959.**Licence.*

In pursuance of the provisions of the *Auctioneers Ordinance 1959*,
of _____ is licensed to carry on the business of an auctioneer
in the Australian Capital Territory until the thirtieth day of June, 19 ____.

Dated this _____ day of _____, 19 ____.

Clerk of the Court of Petty Sessions
at Canberra.