



Auctions (Bidding Agreements) Act 1969

1969 CHAPTER 56

An Act to amend the law with respect to proceedings for offences under the Auctions (Bidding Agreements) Act 1927; to make fresh provision as to the rights of a seller of goods by auction where an agreement subsists that a person or persons shall abstain from bidding for the goods; and for connected purposes. [22nd October 1969]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Offences under Auctions (Bidding Agreements) Act 1927 to be indictable as well as triable summarily, and extension of time for bringing summary proceedings.

- (1) Offences under section 1 of the Auctions (Bidding Agreements) Act 1927 (which, as amended by the Criminal Justice Act 1967, renders a dealer who agrees to give, or gives, or offers a gift or consideration to another as an inducement or reward for abstaining, or for having abstained, from bidding at a sale by auction punishable on summary conviction with a fine not exceeding £400 or imprisonment for a term not exceeding six months, or both, and renders similarly punishable a person who agrees to accept, or accepts, or attempts to obtain from a dealer any such gift or consideration as aforesaid) shall be triable on indictment as well as summarily; and the penalty that may be imposed on a person on conviction on indictment of an offence under that section shall be imprisonment for a term not exceeding two years or a fine or both.
- (2) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, an information relating to an offence under the said section 1 may be tried by a magistrates' court in England or Wales if it is laid at any time within five years after the commission of the offence and within three months after the date on which evidence sufficient in the opinion of the Attorney General to justify the proceedings comes to his knowledge.
- (3) Summary proceedings in Scotland for an offence under the said section 1 shall not be commenced after the expiration of five years from the commission of the offence, but, subject to the foregoing limitation and notwithstanding anything in section 23 of

the Summary Jurisdiction (Scotland) Act 1954, such proceedings may be commenced at any time within three months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.

- (4) For the purposes of subsection (2) above, a certificate of the Attorney General as to the date on which evidence sufficient in his opinion to justify proceedings came to his knowledge shall be conclusive evidence and so, for the purposes of the last foregoing subsection, shall be a corresponding certificate of the Lord Advocate.
- (5) This section applies only to offences committed after the commencement of this Act.

2 Persons convicted not to attend or participate in auctions.

- (1) On any such summary conviction or conviction on indictment as is mentioned in section 1 above, the court may order that the person so convicted or that person and any representative of him shall not (without leave of the court) for a period from the date of such conviction—
 - (a) in the case of a summary conviction, of not more than one year, or
 - (b) in the case of a conviction on indictment, of not more than three years,enter upon any premises where goods intended for sale by auction are on display or to attend or participate in any way in any sale by auction.
- (2) In the event of a contravention of an order under this section, the person who contravenes it (and, if he is the representative of another, that other also) shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding £400;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) In any proceedings against a person in respect of a contravention of an order under this section consisting in the entry upon premises where goods intended for sale by auction were on display, it shall be a defence for him to prove that he did not know, and had no reason to suspect, that goods so intended were on display on the premises, and in any proceedings against a person in respect of a contravention of such an order consisting in his having done something as the representative of another, it shall be a defence for him to prove that he did not know, and had no reason to suspect, that that other was the subject of such an order.
- (4) A person shall not be guilty of an offence under this section by reason only of his selling property by auction or causing it to be so sold.

3 Rights of seller of goods by auction where agreement subsists that some person shall abstain from bidding for the goods.

- (1) Where goods are purchased at an auction by a person who has entered into an agreement with another or others that the other or the others (or some of them) shall abstain from bidding for the goods (not being an agreement, to purchase the goods bona fide on a joint account) and he or the other party, or one of the other parties, to the agreement is a dealer, the seller may avoid the contract under which the goods are purchased.

- (2) Where a contract is avoided by virtue of the foregoing subsection, then, if the purchaser has obtained possession of the goods and restitution thereof is not made, the persons who were parties to the agreement that one or some of them should abstain from bidding for the goods the subject of the contract shall be jointly and severally liable to make good to the seller the loss (if any) he sustained by reason of the operation of the agreement.
- (3) Subsection (1) above applies to a contract made after the commencement of this Act whether the agreement as to the abstention of a person or persons from bidding for the goods the subject of the contract was made before or after that commencement.
- (4) Section 2 of the Auctions (Bidding Agreements) Act 1927 (right of vendors to treat certain sales as fraudulent) shall not apply to a sale the contract for which is made after the commencement of this Act.
- (5) In this section, "dealer" has the meaning assigned to it by section 1(2) of the Auctions (Bidding Agreements) Act 1927.

4 Copy of Act to be exhibited at sale.

Section 3 of the Auctions (Bidding Agreements) Act 1927 (copy of Act to be exhibited at sale) shall have effect as if the reference to that Act included a reference to this Act.

5 Short title, commencement and extent.

- (1) This Act may be cited as the Auctions (Bidding Agreements) Act 1969.
- (2) This Act shall come into force at the expiration of one month beginning with the day on which it is passed.
- (3) This Act shall not extend to Northern Ireland.