

# *The Auctioneers Act*

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Chapter A-34 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1983, c.77; 1983-84, c.54; 1992, c.2; 2002, c.C-11.1; and 2007, c.17.*

## **NOTE:**

This consolidation is not official and is subject to House amendments and Law Clerk and Parliamentary Counsel changes to Separate Chapters that may be incorporated up until the publication of the annual bound volume. Amendments have been incorporated for convenience of reference and the official Statutes and Regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the official Statutes and Regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER A-34

### An Act respecting Auctioneers

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as *The Auctioneers Act*.

#### INTERPRETATION

##### Interpretation

- 2 In this Act:

- (a) “**auctioneer**” means an individual who conducts the bidding at a sale by auction of any property;
- (b) “**auction sales company**” means an individual, firm or corporation that holds a sale by auction of any property;
- (c) “**licence**” means a valid and subsisting licence granted under this Act;
- (d) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e) **Repealed**. 2002, c.C-11.1, s.370.
- (f) “**registrar**” means the member of the public service designated by the minister as the registrar for the purposes of this Act.

1976-77, c.6, s.2; R.S.S. 1978, c.A-34, s.2; 1983, c.77, s.5; 2002, c.C-11.1, s.370.

#### LICENCES

##### Sales by licensed persons only

- 3(1) Except as may be otherwise permitted under this Act, no person shall:

- (a) carry on business as an auction sales company unless he is the holder of a licence authorizing him to carry on such business; or
- (b) act as an auctioneer unless he is the holder of a licence authorizing him to act as an auctioneer.

(2) A person who conducts the bidding at a sale by auction selling property on behalf of an organization or corporation that has objects of a benevolent, religious, charitable, philanthropic, educational, agricultural, scientific, artistic, social, political, professional, fraternal, sporting, athletic or other useful nature and that is not formed for gain shall, provided that he does not do so for gain or hire, be deemed not to be an auctioneer with respect to that auction for the purposes of this Act.

1976-77, c.6, s.3; R.S.S. 1978, c.A-34, s.3; 2007, c.17, s.3.

#### Exemptions

4 Any property sold by auction in Saskatchewan except:

- (a) property sold under the authority of a court or under a power of sale contained in a mortgage and in accordance with *The Land Titles Act*;
- (b) agricultural products sold under the auspices of the Extension Department of the College of Agriculture of The University of Saskatchewan or of the Probreeders' Association;
- (c) property sold by a person mentioned in subsection (2) of section 3; and
- (d) property sold by the authority of a municipality;

shall be sold by an auction sales company or an auctioneer duly licensed under this Act.

1976-77, c.6, s.4; R.S.S. 1978, c.A-34, s.4; 2007, c.17, s.3.

#### Stable keepers

5 Nothing in this Act applies to a stable keeper selling, under section 4 of *The Stable Keepers' Lien Act*, any animal or effects detained by him under that Act.

1976-77, c.6, s.5; R.S.S. 1978, c.A-34, s.5.

#### Compliance with municipal licensing bylaws

6 Nothing in this Act shall relieve any person, nor shall the issue of a licence under this Act relieve the licensee, from compliance with any licensing bylaw of a municipality passed under statutory authority.

1976-77, c.6, s.6; R.S.S. 1978, c.A-34, s.6.

#### Holding out to be an auctioneer or employing unlicensed person prohibited

7(1) No person shall hold himself out as an auction sales company or auctioneer unless he is the holder of a licence granted for the purpose.

(2) No auction sales company shall engage, employ, appoint, authorize or permit any person to do any of the things in respect of which a licence is required under this Act unless that person holds a licence granted for the purpose.

1976-77, c.6, s.7; R.S.S. 1978, c.A-34, s.7.

**Application for licences**

**8(1)** Every application for a licence shall be made to the registrar upon a form provided by him and shall be accompanied by the fee prescribed in the regulations.

(2) Every applicant or person acting on behalf of an applicant may be required by the registrar to verify by affidavit or otherwise the statements made by him in the application.

(3) An auction sales company shall in its application for a licence designate an official thereof as an authorized official of the auction sales company and the licence, if granted, shall state the name of the official so designated, and thereupon that person may act as an auctioneer without a licence on behalf of that auction sales company.

(4) Every application for a licence to carry on the business of an auctioneer that is made by a person who will be representing an auction sales company shall be accompanied by a statement in writing from the auction sales company for whom the applicant intends to act stating that the applicant, if granted a licence, is authorized to act as an auctioneer representing that auction sales company.

1976-77, c.6, s.8; R.S.S. 1978, c.A-34, s.8.

**Address for service**

**9(1)** Every applicant for a licence shall state in his application for the licence an address for service in Saskatchewan and any notice under this Act or the regulations shall for all purposes be sufficiently served on him if it is served personally or is personally delivered at, or sent by registered mail to, that address or the address for service stated or shown in a notice given pursuant to subsection (2).

(2) Every licensee shall, within ten days of a change in his address for service, notify the registrar in writing of his new address for service.

(3) Where a notice is sent to a licensee by registered mail, the notice shall be deemed to have been served on the licensee on the second day after the date of the postmaster's receipt for the envelope containing the notice.

1976-77, c.6, s.9; R.S.S. 1978, c.A-34, s.9.

**Granting or refusing a licence**

**10** The registrar may grant a licence where, in his opinion, the applicant is suitable to be licensed and the proposed licensing is not for any reason objectionable, but the registrar may refuse to grant a licence if after investigation he is for any reason of the opinion that the applicant should not be granted a licence.

1976-77, c.6, s.10; R.S.S. 1978, c.A-34, s.10.

**Licence may be subject to terms and conditions**

**11(1)** The registrar may grant a licence subject to any terms, conditions and restrictions that he considers necessary.

(2) Where a licence has been granted, the registrar may, by notice to the licensee:

- (a) make the licence subject to any terms, conditions and restrictions; or
- (b) vary, add to or revoke any terms, conditions and restrictions to which the licence is subject;

as the registrar considers necessary.

(3) Every licensee shall comply with the terms, conditions and restrictions to which his licence is subject.

1976-77, c.6, s.11; R.S.S. 1978, c.A-34, s.11.

**Registrar may require further information**

**12** The registrar may at any time require further information or material to be submitted by an applicant for a licence or by a licensee within a specified time and may require verification by affidavit or otherwise of any information or material so submitted or previously submitted.

1976-77, c.6, s.12; R.S.S. 1978, c.A-34, s.12.

**Suspension or cancellation of licence**

**13(1)** The registrar may suspend or cancel a licence upon any grounds on which he might have refused to grant the licence or where he is satisfied that the licensee:

- (a) has violated any provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject;
- (b) has made a material mis-statement in the application for his licence or in any of the information or material submitted by him to the registrar at the request of the registrar pursuant to section 12;
- (c) is guilty of any misrepresentation, fraud or dishonesty; or
- (d) has demonstrated his incompetency, unfitness or untrustworthiness to carry on the business in respect of which his licence was granted.

(2) Where the licence of an auction sales company is suspended or cancelled, the licence of the authorized official of that auction sales company shall be automatically terminated.

(3) Where a licence is suspended or cancelled under subsection (1), the suspension or cancellation is effective on and from the day on which the notice of suspension or cancellation is served on the licensee.

(4) Where a bond filed by a person under this Act is terminated, the licence of that person is automatically suspended and shall remain suspended until the person files with the registrar a new bond in the amount and form required.

1976-77, c.6, s.13; R.S.S. 1978, c.A-34, s.13.

**Request for hearing**

14(1) An applicant for a licence or a licensee who is dissatisfied with a decision of the registrar under this Act may, within thirty days from the date of the decision, apply in writing to the registrar for a hearing and thereupon the registrar shall fix a date for the hearing which, unless otherwise agreed, shall be held not later than seven days after the date of the receipt of the application for the hearing.

(2) The registrar shall, within ten days of the conclusion of the hearing, render a decision in writing giving the reasons therefor and he shall immediately send a copy of his decision and reasons to the applicant or licensee.

(3) The applicant or licensee may be represented by counsel in any hearing before the registrar.

(4) For the purpose of holding a hearing, the registrar:

- (a) may require and may take and receive affidavits, statutory declarations and depositions;
- (b) may examine witnesses upon oath and may administer the oath;
- (c) has the same power that any court has in civil cases to:
  - (i) summon persons to attend as witnesses and to give evidence;
  - (ii) enforce the attendance of witnesses; and
  - (iii) compel witnesses to produce books, documents and things.

1976-77, c.6, s.14; R.S.S. 1978, c.A-34, s.14.

**Appeal to Queen's Bench**

15(1) A person who is dissatisfied with a decision of the registrar under section 14 or under subsection (3) of section 17 may, within thirty days from the date of the decision, appeal to a judge of the Court of Queen's Bench who may, upon hearing the appeal, by order do any one or more of the following things:

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) allow the appeal subject to terms and conditions;
- (d) vary the decision appealed against;
- (e) refer the matter back to the registrar for further consideration and decision;
- (f) award costs of the appeal;
- (g) make such other order as to him seems just.

(2) The appeal shall be by notice of motion and a copy thereof shall be served upon the registrar not less than ten days before the day on which the motion is returnable.

(3) There shall be no further appeal.

1976-77, c.6, s.15; R.S.S. 1978, c.A-34, s.15.

**Expiry date of licence**

**16** Unless previously terminated or cancelled every licence expires five years after the date on which it was issued.

1976-77, c.6, s.16; R.S.S. 1978, c.A-34, s.16.

**BONDS****Registrar may require a bond**

**17(1)** Every applicant for a licence may be required to file with the registrar, as part of the application, a bond in the amount and form prescribed by the registrar, issued by an insurer licensed under *The Saskatchewan Insurance Act* to transact guarantee insurance.

(2) Notwithstanding that Her Majesty in right of Saskatchewan has not suffered any loss or damages, every bond filed with the registrar under subsection (1) shall be construed as being a penal bond and, where any such bond is forfeited pursuant to subsection (3), the amount due and owing as a debt to Her Majesty in right of Saskatchewan by the person bound thereby shall be determined as if Her Majesty suffered such loss or damages as would entitle Her Majesty to be indemnified to the maximum amount of liability prescribed by the bond.

(3) Every bond filed under subsection (1) shall be forfeited upon the demand of the registrar where:

(a) the person in respect of whose conduct the bond is conditioned or any authorized representative of that person has been convicted of an offence:

(i) under this Act or the regulations;

(ii) involving fraud or theft or conspiracy to commit an offence involving fraud or theft under the *Criminal Code*;

(b) final judgment in respect of a claim arising from an auction has been given against the person in respect of whose conduct the bond is conditioned or against any authorized representative of that person;

(c) the person in respect of whose conduct the bond is conditioned commits an act of bankruptcy, whether or not proceedings have been taken under the *Bankruptcy Act* (Canada); or

(d) a decision in writing has been rendered by the registrar stating in effect that, after consideration and investigation of a complaint, he is satisfied that the person in respect of whose conduct the bond is conditioned or any authorized representative of that person:

(i) has violated a provision of this Act or has failed to comply with any of the terms, conditions or restrictions to which his licence is subject or is in breach of a contract; and

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(ii) has departed from Saskatchewan, or being out of Saskatchewan remains out of Saskatchewan, or has departed from his dwelling house or has otherwise absented himself and reasonable efforts have failed to locate him in the province or, in the case of a corporation, the name thereof has been struck off the register of companies;

and where there is no further appeal or the time for all appeals therefrom has elapsed.

(4) Where a bond secured by the deposit with the registrar of collateral security is forfeited under subsection (3), the registrar may sell the collateral security at the current market price.

(5) The Lieutenant Governor in Council may by order direct that any moneys recovered under a forfeited bond or realized from the sale of any collateral security be:

(a) paid over:

(i) to the local registrar of the Court of Queen's Bench in trust for such persons as may become judgment creditors of the person named in that bond in respect of auctions conducted by him or his authorized representative;

(ii) to any trustee, custodian, interim receiver, receiver or liquidator of the person named in the bond or his authorized representative;

in accordance with and upon the conditions set forth in the order; or

(b) paid over to such persons as may be deemed by the registrar to be entitled to them.

(6) Any moneys not expended under an order of the Lieutenant Governor in Council made under subsection (5) shall, after the payment of any expenditures incurred by the registrar in connection with the forfeiture of the bond and the determination and settlement of valid claims, be refunded to the surety or obligor under the bond.

1976-77, c.6, s.17; R.S.S. 1978, c.A-34, s.17.

## GENERAL

**Records and accounts**

**18** Every person who is licensed under this Act to engage in the business of an auction sales company or an auctioneer shall keep proper records and books of account showing moneys received and moneys paid out, including a receipt book, ledger and journals or equivalent machine accounting records.

1976-77, c.6, s.18; R.S.S. 1978, c.A-34, s.18.

**Certificate of registrar *prima facie* proof**

**19** A certificate stating that, at a particular time:

- (a) a person named in the certificate was or was not licensed under this Act; or
- (b) the licence of a person was suspended, cancelled or reinstated;

purporting to be signed by the registrar is, without proof of the office or signature of the registrar, admissible in evidence as *prima facie* proof of the facts stated in the certificate.

1976-77, c.6, s.19; R.S.S. 1978, c.A-34, s.19.

**Regulations**

**20** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) prescribing requirements respecting applicants for licences;
- (c) prescribing the fees payable for licences and services rendered in connection with the administration of this Act;
- (d) exempting any person or class of persons from any of the provisions of this Act;
- (e) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

1976-77, c.6, s.20; R.S.S. 1978, c.A-34, s.20.

**21 Repealed.** 1992, c.2, s.2.

**Contents of sale bill and advertisements**

**22** Every auction sales company and auctioneer shall cause to be printed or written on every auction sales bill, notice of sale, poster or advertisement relating to an auction his name and the words "Provincial Licence Number" followed by the number of the licence.

1976-77, c.6, s.22; R.S.S. 1978, c.A-34, s.22.

## OFFENCES AND PENALTIES

**Offences**

**23** Any person who:

- (a) does anything that is prohibited by this Act or the regulations; or
- (b) omits to do anything that is required to be done by this Act or the regulations;

is guilty of an offence.

1976-77, c.6, s.23; R.S.S. 1978, c.A-34, s.23

**Penalties**

**24** A person who is guilty of an offence against this Act is liable on summary conviction to a fine of not more than \$1,000 and in default of payment to imprisonment for a term not exceeding six months or, in the case of a corporation, to a fine of not more than \$5,000.

1976-77, c.6, s.24; R.S.S. 1978, c.A-34, s.24.

**Evidence of carrying on of business**

**25** Where in a prosecution for an offence under this Act it is alleged that the accused carried on the business of an auction sales company or an auctioneer without being the holder of a licence granted for the purpose, evidence of one transaction is *prima facie* evidence that the accused carried on such business.

1976-77, c.6, s.25; R.S.S. 1978, c.A-34, s.25.

**Crown bound**

**26** This Act binds the Crown in right of Saskatchewan.

1976-77, c.6, s.26; R.S.S. 1978, c.A-34, s.26.

**Limitation of prosecution**

**27** No prosecution for an offence under this Act shall be commenced after one year from the date of the offence.

1976-77, c.6, s.27; R.S.S. 1978, c.A-34, s.27.

