

## AUCTIONEERS.

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No. 62 of 1970.

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AN ACT to amend the Auctioneers Act, 1921-1948.

*[Assented to 5th November, 1970.]*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Auctioneers Act Amendment Act, 1970.*

Vol. 19  
Reprinted  
Acts.  
Approved for  
reprint 12th  
March, 1965.

(2) In this Act the Auctioneers Act, 1921-1948, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Auctioneers Act, 1921-1970.

2. This Act shall come into operation on a date to be fixed by proclamation. Commence-  
ment.
3. Section 4 of the principal Act is amended— Amendment  
to s. 4.  
(Licenses).
- (a) by repealing and re-enacting subsection (3) as follows—
- (3) “Metropolitan area” means such portion of the State as the Governor, by proclamation, declares to be the metropolitan area for the purposes of this Act. ; and
- (b) by adding a subsection as follows—
- (4) A proclamation which the Governor is hereby empowered to make under subsection (3) of this section, may be cancelled or from time to time varied by a subsequent proclamation. .
4. Section 5 of the principal Act is amended— Amendment  
to s. 5.  
(No license  
to be  
granted  
unless  
magistrate's  
certificate  
obtained.)
- (a) by substituting for the passage “(according to the form in Schedule B to this Act) of the resident” in lines two and three of subsection (1) the words “in the prescribed form of the stipendiary”;
- (b) by substituting for the word “resident” in line seven of subsection (1) the word “stipendiary”;
- (c) by substituting for the passage “in writing therefor according to the form in Schedule C to this Act” in lines five and six of subsection (2) the words “therefor in the prescribed form”;
- (d) by substituting for the passage “subscribed as shown in Schedule C” in lines four and five of subsection (3) the words “in the prescribed form”; and

- (e) by substituting for the passage “according to the form in Schedule D to this Act” in lines four and five of subsection (4) the words “in the prescribed form”.

Amendment  
to s. 7.  
(Granting  
of licenses.)

5. Subsection (2) of section 7 of the principal Act is amended by substituting for the passage “forms 1, 2 and 3 in Schedule E to this Act, and the forms shall be printed by the Government Printer” in lines two, three and four the words “prescribed forms”.

Amendment  
to s. 10.  
(Transfer of  
licenses.)

6. Section 10 of the principal Act is amended—

- (a) by substituting for the word “resident” in line four of subsection (1) the word “stipendiary”;
- (b) by substituting for the passage “in Schedules C and D” in line two of subsection (3) the passage “prescribed for the purposes of subsection (2) and subsection (4) of section five of this Act”;
- (c) by substituting for the passage “in Schedule F to this Act” in lines three and four of subsection (4) the word “prescribed”; and
- (d) by substituting for the word “resident” in lines three and six of subsection (5) the word “stipendiary”.

Amendment  
to s. 14.  
(Temporary  
license to  
clerk or  
deputy of  
licensed  
auctioneer).

7. Section 14 of the principal Act is amended—

- (a) by substituting for the words “police or resident” in line one of subsection (1) the word “stipendiary”; and
- (b) by substituting for the passage “form in Schedule G to this Act, and the forms shall be printed by the Government Printer” in lines two and three of subsection (2) the words “prescribed form”.

8. Section 15 of the principal Act is amended—

Amendment  
to s. 15.  
(Occasional  
district  
license.)

(a) by deleting the passage “, police, or resident” in line one of subsection (1);

(b) by substituting for the passage “form in Schedule H to this Act and which form shall be printed by the Government Printer” in lines six, seven and eight of subsection (3) the words “prescribed form”.

9. The principal Act is amended by adding after section 15 a section as follows—

S. 15A added.

15A. (1) Subject to this Act, a licensed auctioneer who desires any person employed by him to obtain practical instruction in the carrying on of the business of an auctioneer, may apply for and obtain with respect to that person, a provisional auctioneer's certificate.

Provisional  
auctioneer's  
certificate.

(2) Subject to this Act, a provisional auctioneer's certificate—

(a) shall take effect on and from the day specified in the certificate;

(b) shall, unless sooner cancelled or suspended pursuant to this Act, continue in force for a period of two months from the date upon which it takes effect;

(c) shall, during the currency of the certificate, authorise the person with respect to whom it is granted and who shall be nominated in the certificate as the trainee, to act as an auctioneer under the direct supervision and instruction of the licensed auctioneer who applied for the certificate and who shall be nominated therein;

(d) shall authorise the person nominated as the trainee therein to act as an auctioneer in the same portion of the

State as the licensed auctioneer nominated therein is authorised to so act.

(3) A licensed auctioneer shall not be granted in any calendar year more than three provisional auctioneer's certificates with respect to the same person.

(4) The licensed auctioneer who applied for a provisional auctioneer's certificate is personally liable and responsible for an act or default of a person acting under his direct supervision and instructions under the certificate, in the same manner and to the same extent as the licensed auctioneer would be liable if the act or default were done or made by the licensed auctioneer. .

S. 15B added.

10. The principal Act is amended by adding a section as follows—

Application  
for  
provisional  
auctioneer's  
certificate.

15B. (1) A licensed auctioneer who desires to obtain a provisional auctioneer's certificate shall lodge an application in the prescribed form with the Clerk of the Court of Petty Sessions nearest to the principal place where the applicant carries on his business as an auctioneer.

(2) The application—

- (a) shall be accompanied by three testimonials signed by different reputable persons as to the character of the person with respect to whom the certificate is required and a certificate signed by the applicant that he proposes to undertake the control and supervision of such person while he is acting under the authority of the certificate, if granted;
- (b) shall be delivered to the Clerk of that Court at least ten days before the date specified in the application as the day on which the application will be made.

(3) If the Court of Petty Sessions, which shall be constituted by a stipendiary magistrate sitting alone, is satisfied that the person with respect to whom the certificate is applied for is of good fame and character and otherwise a fit and proper person to carry on the business of an auctioneer under and in accordance with the certificate, it may issue, on the payment of a fee of five dollars or such other fee as may be prescribed, to the applicant in the form prescribed a provisional auctioneer's certificate.

(4) A provisional auctioneer's certificate shall not be issued with respect to any person who is under the age of twenty-one years.

(5) The Minister may, if requested in writing so to do by the licensed auctioneer nominated in a provisional auctioneer's certificate, cancel or suspend the certificate for such period and on such conditions as in the circumstances of the case he thinks fit. .

11. Paragraph (c) of section 16 of the principal Act is amended by adding after the word "Australia" in line three the words "or The District Court of Western Australia".

Amendment  
to s. 16.  
(Auction  
sales for  
which no  
license  
required.)

12. Section 17 of the principal Act is amended—

(a) by substituting for the passage "Licensing Act, 1911" in line three the passage "Liquor Act, 1970";

Amendment  
to s. 17.  
(Auctioneers  
to have the  
privileges of  
a gallon  
license  
holder.)

(b) by deleting the words "not less than one gallon" in line five;

(c) by substituting for the word "gallon" in line thirteen the word "store"; and

(d) by substituting for the words "police or resident" in line sixteen the word "stipendiary".

Amendment  
to s. 18.  
(Reservation  
of rights of  
auctioneer  
being a  
license  
holder.)

13. Section 18 of the principal Act is amended by substituting for the passage "Licensing Act, 1911," the passage "Liquor Act, 1970,".

Amendment  
to s. 19.

(An  
auctioneer  
who holds a  
gallon, two  
gallon, or  
spirit  
merchant's  
license may  
hold sale  
on any  
premises).

14. Section 19 of the principal Act is amended—

(a) by substituting for the passage "a gallon, two-gallon, or" in line two the words "a store or wholesale"; and

(b) by substituting for the passage "Licensing Act, 1911" in line seven the passage "Liquor Act, 1970".

Amendment  
to s. 20.

(Licenses  
may be  
issued for  
the benefit  
of firms or  
companies.)

15. Subsection (10) of section 20 of the principal Act is amended by substituting for the passage "Registration of Firms Act, 1897," in line three the passage "Business Names Act, 1962,".

Amendment  
to s. 21.

(No appeal  
against  
grant of  
license, etc.)

16. Section 21 of the principal Act is amended by adding before the word "but" in line three the passage "or a provisional auctioneer's certificate,".

Repeal of  
s. 22.

(Any police  
magistrate  
may act as  
resident  
magistrate.)

17. Section 22 of the principal Act is repealed.

Amendment  
to s. 23.

(Forfeiture  
of license.)

18. Section 23 of the principal Act is amended by substituting for the words "police or resident" in line two the word "stipendiary".

Repeal of  
Schedules to  
principal  
Act.

19. Schedules B to H (inclusive) to the principal Act are repealed.