CHAPTER 47

An Act to prohibit certain practices in relation to sales purporting to be sales by auction. [27th July, 1961]

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:—

Penalties for promoting or conducting mock auctions.

1.—(1) It shall be an offence to promote or conduct, or to assist in the conduct of, a mock auction at which one or more lots to which this Act applies are offered for sale.

(2) Any person guilty of an offence under this Act shall be liable—

(*a*) on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment;

(*b*) on conviction on indictment, to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding two years, or to both such a fine and such imprisonment.

(3) Subject to the following provisions of this section, for the purposes of this Act a sale of goods by way of competitive bidding shall be taken to be a mock auction if, but only if, during the course of the sale—

(*a*) any lot to which this Act applies is sold to a person bidding for it, and either it is sold to him at a price lower than the amount of his highest bid for that lot, or part of the price at which it is sold to him is repaid or credited to him or is stated to be so repaid or credited, or

(*b*) the right to bid for any lot to which this Act applies is restricted, or is stated to be restricted, to persons who have bought or agreed to buy one or more articles, or

(*c*) any articles are given away or offered as gifts.

(4) A sale of goods shall not be taken to be a mock auction by virtue of paragraph (*a*) of the last preceding subsection, if it is proved that the reduction in price, or the repayment or credit, as the case may be,—

(*a*) was on account of a defect discovered after the highest bid in question had been made, being a defect of which the person conducting the sale was unaware when that bid was made, or

(*b*) was on account of damage sustained after that bid was made.

Offences by bodies corporate.

2. Where an offence punishable under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance or to be attributable

to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Interpretation.

3.—(1) In this Act " sale of goods by way of competitive bidding " means any sale of goods at which the persons present, or some of them, are invited to buy articles by way of competitive bidding, and " competitive bidding " includes any mode of sale whereby prospective purchasers may be enabled to compete for the purchase of articles, whether by way of increasing bids or by the offer of articles to be bid for at successively decreasing prices or otherwise.

(2) In this Act " lot to which this Act applies " means a lot consisting of or including one or more prescribed articles; and " prescribed articles " means any plate, plated articles, linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household or personal use or ornament or any musical or scientific instrument or apparatus.

(3) In this Act " stated ", in relation to a sale of goods by way of competitive bidding, means stated by or on behalf of the person conducting the sale, by an announcement made to the persons for the time being present at the sale.

(4) For the purposes of this Act any bid stated to have been made at a sale of goods by way of competitive bidding shall be conclusively presumed to have been made, and to have been a bid of the amount stated; and any reference in this Act to the sale of a lot to a person who has made a bid for it includes a reference to a purported sale thereof to a person stated to have bid for it, whether that person exists or not.

(5) For the purposes of this Act anything done in or about the place where a sale of goods by way of competitive bidding is held, if done in connection with the sale, shall be taken to be done during the course of the sale, whether it is done at the time when any articles are being sold or offered for sale by way of competitive bidding or before or after any such time.

52 & 53 Vict. c. 63.

(6) Subject to the provisions of section thirty-three of the Interpretation Act, 1889 (which relates to offences under two or more laws), nothing in this Act shall derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

Short title, commencement, and extent.

4.—(1) This Act may be cited as the Mock Auctions Act, 1961.

(2) This Act shall come into operation at the expiration of a period of one month beginning with the date on which it is passed.

(3) This Act shall not extend to Northern Ireland.