



# Sale of Land by Auction Act 1867

1867 CHAPTER 48 30 and 31 Vict

**E+W+N.I.**

An Act for amending the law of auctions of estates.

[15th July 1867]

## Modifications etc. (not altering text)

- C1 Recitals omitted under authority of [Statute Law Revision Act 1893 \(c. 14\)](#)
- C2 Words of enactment repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)
- C3 This Act is not necessarily in the form in which it has effect in Northern Ireland

## Commencement Information

- I1 Act wholly in force at Royal Assent

## 1 Short title. **E+W+N.I.**

This Act may be cited for all purposes as “The Sale of Land by Auction Act, 1867.”

## 2 .....<sup>F1</sup> **E+W+N.I.**

## Textual Amendments

- F1 [S. 2](#) repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

## 3 Interpretation of terms. **E+W+N.I.**

“Auctioneer” shall mean any person selling by public auction any land, whether in lots or otherwise:

“Land” shall mean any interest in any messuages, lands, tenements, or hereditaments, of whatever tenure:

“Agent” shall mean the solicitor, steward, or land agent of the seller:

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*Changes to legislation: There are currently no known outstanding effects for the Sale of Land by Auction Act 1867. (See end of Document for details)*

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“Puffer” shall mean a person appointed to bid on the part of the owner.

**Modifications etc. (not altering text)**

C4 S. 3 amended (1.1.1992) by S.I. 1991/2684, arts. 2(1), 4, Sch.1

**4 Where sales are invalid in law to be also invalid in equity. E+W+N.I.**

And whereas there is at present a conflict between Her Majesty’s courts of law and equity in respect of the validity of sales by auction of land where a puffer has bid, although no right of bidding on behalf of the owner was reserved, the courts of law holding that all such sales are absolutely illegal, and the courts of equity under some circumstances giving effect to them but even in courts of equity the rule is unsettled: And whereas it is expedient that an end should be put to such conflicting and unsettled opinions: Be it therefore enacted, that from and after the passing of this Act whenever a sale by auction of land would be invalid at law by reason of the employment of a puffer, the same shall be deemed invalid in equity as well as at law.

**5 Rule respecting sale without reserve, &c. E+W+N.I.**

The particulars or conditions of sale by auction of any land shall state whether such land will be sold without reserve, or subject to a reserved price, or whether a right to bid is reserved; if it is stated that such land will be sold without reserve, or to that effect, then it shall not be lawful for the seller to employ any person to bid at such sale, or for the auctioneer to take knowingly any bidding from any such person.

**6 Rule respecting sale subject to right of seller to bid. E+W+N.I.**

And, where any sale by auction of land is declared either in the particulars or conditions of such sale to be subject to a right for the seller to bid, it shall be lawful for the seller or any one person on his behalf to bid at such auction in such manner as he may think proper.

**7 Practice of opening biddings, by Order of Chancery, except on ground of fraud, to be discontinued. E+W+N.I.**

The practice of opening the biddings on any sale by auction of land under or by virtue of any order of the High Court of Chancery shall be discontinued, and the highest bona fide bidder at such sale, provided he shall have bid a sum equal to or higher than the reserved price (if any), shall be declared and allowed the purchaser, unless the Court or judge shall, on the ground of fraud or improper conduct in the management of the sale, upon the application of any person interested in the land (such application to be made to the Court or judge before the chief clerk’s certificate of the result of the sale shall have become binding), either open the biddings, holding such bidder bound by his bidding, or discharge him from being the purchaser, and order the land to be resold upon such terms as to costs or otherwise as the Court or judge shall think fit.

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**Modifications etc. (not altering text)**

- C5** Jurisdiction of High Court of Chancery now exercisable by High Court of Justice (E.W.): [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 18](#)

**8 Exception of Court of Chancery, etc. E+W+N.I.**

Except as aforesaid, nothing in this Act contained shall affect any sale of land made under or by virtue of any order of the High Court of Chancery in England, of the High Court of Chancery in Ireland, or of the Landed Estates Court there, or of the Court of Chancery in the County Palatine of Lancaster, or of any county or other court having jurisdiction in equity.

**9 Not to extend to Scotland. E+W+N.I.**

This Act shall not extend to Scotland.

**Changes to legislation:**

There are currently no known outstanding effects for the Sale of Land by Auction Act 1867.