MALTA

ATT Nru. XXV ta' l-1990

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT biex jipprovdi għall-għoti ta' liċenza lill-Irkantaturi u biex jirregola l-irkantar.

ACT No. XXV of 1990

AN ACT enacted by the Parliament of Malta.

AN ACT to make provision for the licensing of Auctioneers and to regulate auctioneering.

Nagħti l-kunsens tiegħi.

(L.S.)

ĊENSU TABONE
President

26 ta' Ġunju, 1990

ATT Nru. XXV ta' l-1990

ATT biex jipprovdi għall-għoti ta' liċenza lill-Irkantaturi u biex jirregola l-irkantar.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, ħareġ b'liġi dan li ġej:—

1. Dan l-Att għandu jissejjaħ l-Att ta' l-1990 dwar l-Irkantaturi, u għandu jidħol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-kummerċ jista' b'avviż fil-Gazzetta jistabbilixxi. Titolu fil-qosor u bidu fis-seħħ.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma tkunx teħtieġ xort'oħra: Tifsir.

"oġġett antik" tfisser xogħol artistiku jew oġġett ta' importanza ġeoloġika, paleontoloġika, arkejoloġika jew antika u li mill-inqas għaddew minn fuqu mitt sena;

"irkantatur" tfisser persuna li tagħmel bejgħ b'irkant pubbliku iżda ma tinkludix irkantatur ta' annimali inkluż ħut, kemm jekk ħajjin kemm jekk mejta, ikel jew prodotti agrikoli;

"Ministru" tfisser il-Ministru responsabbli għall-kummerċ u ħlief għall-finijiet tas-subartikolu (2) ta' l-artikolu 3 u l-artikolu 5 ta' dan l-Att, tinkludi, sal-limitu ta' l-awtorità mogħtija, kull persuna awtorizzata mill-Ministru f'dak ir-rigward għal kull għan ta' dan l-Att;

"preskritt" tfisser preskritt b'regolamenti magħmulin bis-saħħa ta' dan l-Att.

3. (1) Ħadd ma jista' jagħmilha ta' irkantatur f'xi irkant ħlief jekk ikollu liċenza bis-saħħa tad-dispożizzjonijiet ta' dan l-Att. Irkantaturi.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma għandhomx japplikaw għal bejgħ b'irkant pubbliku li jsiru taħt l-awtorità tal-Qrati tal-Ġustizzja, il-Monti, jew kull istitut jew dipartiment pubbliku ieħor awtorizzati mill-Ministru għal dak il-għan.

Liċenzi jinħarġu mill-Ministru.

4. (1) Il-liċenzi biex wieħed jagħmilha ta' irkantatur jistgħu jinħarġu mill-Ministru taħt dawk il-kundizzjonijiet li jistgħu jiġu preskritti.

(2) Il-liċenzi jkunu validi għas-sena tal-ħruġ tagħhom u jistgħu jiġġeddu għal perijodi ulterjuri ta' sena kull wieħed li jkunu jagħlqu fil-31 ta' Diċembru tas-sena ta' tiġdid.

Setgħa biex isiru regolamenti.

5. Il-Ministru jista' jagħmel regolamenti għall-aħjar twettiq tad-dispożizzjonijiet ta' dan l-Att u partikolarment jista' jagħmel regolamenti —

(a) li jirregolaw ix-xogħol ta' l-irkantatur;

(b) li jippreskrivu d-drittijiet li għandhom jintalbu għall-għoti jew tiġdid ta' liċenzi maħruġin lil irkantaturi;

(ċ) li jippreskrivu d-drittijiet jew rati ta' kummissjoni li jistgħu jintalbu mill-irkantaturi;

(d) li jippreskrivu l-età u kwalifiki oħrajn meħtieġa biex wieħed jkun eliġibbli li jikseb liċenza bis-saħħa ta' dan l-Att;

(e) li jippreskrivu r-reġistri, kotba, konteġġi u notamenti li għandhom jinżammu minn irkantaturi, il-mod u l-għamla kif dawk id-dokumenti għandhom jinżammu, u li jipprovdu għall-ispezzjonijiet ta' dawk id-dokumenti.

(f) li jippreskrivu l-ħtiġiet dwar avviżi ta' irkanti;

(ġ) li jipprovdu għal ispezzjonijiet ta' xi fondi użati minn irkantaturi għal jew in konnessjoni max-xogħol tagħhom;

(ħ) li jippreskrivu d-dmirijiet ta' irkantaturi u l-avviżi li huma għandhom jagħmlu dwar xi oġġett antik li għandu jinbiegħ b'irkant;

(i) li jippreskrivu kull ħaġa oħra li tista' tkun meħtieġa sabiex tagħti seħħ lid-dispożizzjonijiet ta' dan l-Att.

Reati u pieni.

6. Min jikser xi waħda mid-dispożizzjonijiet ta' dan l-Att jew xi regolament li jsir bis-saħħa tiegħu, jew li jikser xi kundizzjoni li jkun hemm f'xi liċenza maħruġa bis-saħħa ta' dan l-Att ikun ħati, ħlief jekk l-att ikun jikkostitwixxi reat iktar serju taħt xi liġi oħra, ta' reat kontra dan l-Att u għandu għal kull reat jeħel meta jinstab ħati mill-Qorti tal-Maġistrati tal-Pulizija Ġudizzjarja, multa ta' mhux inqas minn ħamsin lira iżda ta' mhux iżjed minn ħames mitt lira; u l-qorti tista', b'żieda ma' dik il-piena, tordna s-sospensjoni jew ir-revoka ta' liċenza mogħtija bis-saħħa ta' dan l-Att jew li dak il-ħati jkun temporanjament jew permanentement skwalifikat milli jkollu liċenza bħal dik.

Responsabbiltà ta' l-irkantatur għal oġġetti mqegħdin fil-kustodja tiegħu.

7. Irkantatur ikun responsabbli għaż-żamma fiż-żgur u b'mod xieraq ta' kull oġġett li jitqiegħed fil-kustodja tiegħu għal bejgħ bl-irkant, minn x'ħin jitqiegħed fil-kustodja tiegħu mill-bejjiegħ sa x'ħin

dan jinġabar minn għandu minn xerrej jew sa x'ħin jingħata lura lill-bejjiegħ jekk jibqa' ma jinbiegħx, u huwa għandu jagħmel tajjeb għal kull ksur, ħsara jew telfien ta' kull oġġett bħal dak li jiġri filwaqt li l-oġġett ikun fil-kustodja ta' l-irkantatur, jekk dak il-ksur, dik il-ħsara jew dak it-telfien ikunu ġraw b'konsegwenza tat-traskuraġni ta' l-irkantatur, in-nuqqas ta' ħsieb tiegħu, jew xi omissjoni tiegħu.

Responsabbiltà ta' l-irkantatur dwar id-deskrizzjoni ta oġġetti għall-bejgħ b'irkant.

8. (1) Irkantatur ikun responsabbli għall-korrettezza tal-kontenut ta' xi katalogu li jintuża għall-finijiet ta' irkant u għall-korrettezza ta' xi deskrizzjoni ta' l-oġġetti għall-bejgħ b'irkant li huwa jista' jagħti anki verbalment waqt irkant.

(2) Mingħajr preġudizzju għal kull responsabbiltà ċivili jew responsabbiltà oħra ta' l-irkantatur jekk fi żmien xahar minn l-aħħar jum ta' l-irkant oġġett mibjugħ fi rkant jinstab li ma jkunx skond id-deskrizzjoni murija fil-katalogu jew mod ieħor mogħtija mill-irkantatur, l-irkantatur għandu fuq talba tax-xerrej iħallas lura lix-xerrej l-ammont sħiħ li jkun tħallas għall-oġġett flimkien ma' kull dritt jew kummissjoni li setgħu tħallsu mix-xerrej. Azzjoni ta' xerrej li jkun għamel talba lil irkantatur fiż-żmien imsemmi f'dan is-subartikolu, biex jinforza d-drittijiet lilu mogħtija b'dan is-subartikolu, trid tinġieb mhux aktar tard minn tliet xhur mid-data ta' dik it-talba, liema żmien ma jkunx jista' jiġi interrot jew sospiż.

Liġijiet oħra.

9. Id-dispożizzjonijiet ta' dan l-Att ma għandhomx jitqiesu li jeżentaw lill xi persuna minn kull ħtieġa jew responsabbiltà li joħorġu bis-saħħa ta' xi liġi oħra jew taħtha.

Tħassir u riżerva.

Kap. 4.

10. (1) Bla ħsara għad-dispożizzjonijiet tas-subartikoli (2) u (3) ta' dan l-artikolu u mingħajr preġudizzju għal kull ħaġa magħmula jew li naqset li tintgħamel jew għal kull responsabbiltà li toħroġ minnha, il-Liġi dwar l-Irkantaturi hija b'dan imħassra.

(2) Kull irkantatur li għandu liċenza bis-saħħa tal-Liġi dwar l-Irkantaturi mad-dħul fis-seħħ ta' dan l-Att u kull persuna li kienet qegħda taħdem ma' irkantatur kontinwament u esklużivament fix-xogħol ta' l-irkantar għal perijodu ta' mill-inqas ħames snin minnufih qabel id-dħul fis-seħħ ta' dan l-Att għandu jitqies li jkollu pussess ta' liċenza bis-saħħa ta' dan l-Att, u ħlief jekk dik il-liċenza tiskadi f'data li tiġi qabel, għandha titqies li tiskadi fil-31 ta' Diċembru, 1990.

(3) L-artikolu 4 tal-Liġi dwar l-Irkantaturi u t-Tariffa li tinsab ma' dik il-liġi għandhom, sakemm jiġu preskritti drittijiet ġodda skond dan l-Att, jibqgħu japplikaw għal kull bejgħ b'irkant.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 388 tad-19 ta' Ġunju, 1990.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

ĊENSU TABONE
President

26th June, 1990

ACT No. XXV of 1990

AN ACT to make provision for the licensing of Auctioneers and to regulate auctioneering.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. This Act may be cited as the Auctioneers Act, 1990, and shall come into force on such date as the Minister responsible for trade may by notice in the Gazette establish.

Interpretation.

2. In this Act, unless the context otherwise requires:

"antique" means a work of art or an object of a geological, palaeontological, archaeological or antiquarian importance and which is at least one hundred years old;

"auctioneer" means a person who conducts public sales by auction but does not include an auctioneer of animals, including fish, whether alive of dead, food or agricultural produce;

"Minister" means the Minister responsible for trade and except for the purposes of subsection (2) of section 3 and section 5 of this Act, includes, to the extent of the authority given, any person authorised by the Minister in that behalf for any purpose of this Act;

"prescribed" means prescribed by regulations under this Act.

Auctioneers.

3. (1) No person shall act as auctioneer at any auction unless he is so licensed under the provisions of this Act.

(2) The provisions of subsection (1) of this section shall not apply to public sales by auction conducted under the authority of the Courts of Law, *il-Monti,* or any other public institution or department authorised by the Minister to that effect.

Licences to be issued by Minister.

4. (1) Licences to act as an auctioneer may be granted by the Minister under such conditions as may be prescribed.

(2) Such licences shall be valid for the year of issue and may be renewed for further periods of one year each ending on 31st December of the year of renewal.

Power to make regulations.

5. The Minister may make regulations for the better carrying out of any of the provisions of this Act and in particular may make regulations:

(a) regulating the business of auctioneers;

(b) prescribing the fees chargeable for the grant or renewal of licences issued to auctioneers;

(c) prescribing the fees or commissions that may be chargeable by auctioneers;

(d) prescribing the age and other qualifications for eligibility to obtain a licence under this Act;

(e) prescribing the registers, books, accounts and records that shall be kept by auctioneers, the form and manner in which such documents shall be kept, and providing for inspections thereof;

(f) prescribing the requirements of notices of auctions;

(g) providing for inspections of any premises used by auctioneers for or in connection with their business;

(h) prescribing the duties of auctioneers and the notices to be given by them in respect of any antique to be sold by auction;

(i) prescribing any other matter that may be necessary for giving effect to the provisions of this Act.

Offences and penalties.

6. Any person who contravenes any of the provisions of this Act or any regulation made thereunder, or infringes any condition imposed in any licence under this Act shall, unless the act constitutes a more serious offence under any other law, be guilty of an offence against this Act and shall for each offence be liable on conviction by the Court of Magistrates of Judicial Police, to a fine *(multa)* of not less than fifty Maltese liri but not exceeding five hundred Maltese liri; and the court may, in addition to such penalty, order the suspension or revocation of any licence granted under this Act or that such offender be disqualified temporarily or permanently from holding any such licence.

Liability of auctioneer for articles placed in his custody.

7. An auctioneer shall be responsible for the safe and proper keeping of any article placed in his custody with him for sale by auction, from the time it is passed into his custody by the seller until the time

it is collected from him by a buyer or returned to the seller if unsold, and shall make good any breakage, damage or loss of any such item occurring during the time that it is in the custody of the auctioneer, if such breakage, damage or loss has occurred due to the auctioneer's negligence, imprudence or omission.

Auctioneer's responsibility in respect of description of goods to be sold by auction.

8. (1) An auctioneer shall be responsible for the correctness of the contents of any catalogue used for the purpose of an auction and for the correctness of any description of the goods to be sold by auction which he may give even verbally during an auction.

(2) Without prejudice to any civil or other liability of the auctioneer if within a period of one month from the last day of the auction an item sold at an auction is found to be not according to the description shown in the catalogue or otherwise given by the auctioneer, the auctioneer shall on request by the buyer refund to the buyer the full amount paid for the article together with any fee or commission that may have been paid by the buyer. An action by a buyer who shall have made a request to an auctioneer within the time mentioned in this subsection, to enforce the rights granted to him by this subsection, must be brought not later than three months from the date of the said request, which term may not be interrupted or suspended.

Other laws.

9. The provisions of this Act shall not be deemed to exempt any person from any requirement or liability imposed by or under any other law.

Repeal and savings.
Cap. 4.

10. (1) Subject to the provisions of subsections (2) and (3) of this section and without prejudice to anything done or omitted to be done or to any liability incurred thereunder the Auctioneers Law is hereby repealed.

(2) Any auctioneer who is licensed under the Auctioneers Law on the coming into force of this Act and any person who has been working with a licensed auctioneer continually and exclusively in the business of auctioneering for a period of at least five years immediately preceding the coming into force of this Act shall be deemed to be in possession of a licence under this Act, and unless such licence expires at an earlier date it shall be deemed to expire on the 31st day of December, 1990.

(3) Section 4 of the Auctioners Law and the Tariff annexed to that Law shall until new fees are prescribed in accordance with this Act, continue to apply to sales by auction.

Passed by the House of Representatives at Sitting No. 388 of the 19th June, 1990.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives

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