Form R4

Bidders Guide

Guide to the sale of residential property by auction

Land and Business (Sale and Conveyancing) Act 1994 section 24I and section 24J(1)(f)

Under the Act, the real estate agent responsible for this auction must provide each person registered on the bidders register with this guide.

Who needs to register?

Any person who intends to bid at an auction for residential property must register. Registering for an auction does not mean you must bid. Registering simply gives you the right to bid. You can register with the agent at any time before the auction, such as when you inspect the property, or on the day of the auction.

If you are bidding to buy the property jointly, for example, with a spouse or partner, only one person needs to register, however, only that person will be able to bid at the auction.

If you are bidding on behalf of another person you will need to provide that person's name and present a copy of a document signed by that person that authorises you to bid on their behalf. Proof of identity

To register, you must show the agent one of the following *:

- a current document or card issued to you from a Commonwealth, State, Territory or local government authority (e.g. passport, driver's licence, or pension/health concession card, council or water rates notice)
- a document or card issued to you from a utility company (e.g. an electricity supply company)
- a document or card issued to you by a bank (e.g. visa card)
- a passport issued to you by a foreign government.
- * you do not need to leave the document with the agent or allow them to make a copy

If you are bidding on behalf of another person, you must also provide a copy of one of the documents listed above that has been issued to that person.

It is against the law to provide false information for entry onto the bidders register.

What happens at registration?

Once you have registered, the agent will provide you with a unique identifier (comprising a number, letter, colour or some other identifying feature). Each time you make a bid you must display this unique identifier.

What if I arrive at the auction late?

Once an auction has commenced, the agent may interrupt the auction to allow you to register. It is up to the agent to determine whether or not to stop the auction to allow you to register. If you are entered on the register you may bid at the auction.

Prescribed standard conditions for auction of residential property

Apart from any conditions of auction that the agent also displays at the auction, the following prescribed standard conditions will apply to all auctions of residential land:

a) any person may bid in the auction in person, or by their proxy or representative, subject to the conditions of auction;
b) the vendor's reserve price will be as recorded in the auction record;
c) to make a bid a person must be registered in the bidders register, having satisfied the requirements as to proof of identity and, if applicable, authority to bid as a proxy or representative;
d) the auctioneer will only accept a bid if the person making the bid displays a unique identifier (comprising a number, letter, colour, or some other identifying feature) allocated to the person by the auctioneer
e) the auctioneer will, when accepting a bid, audibly announce the unique identifier so displayed by the bidder;
f) the auctioneer may refuse a bid if of the opinion that it is not in the best interests of the vendor, and will not be obliged to give any reason for refusing a bid;
g) the auctioneer may make bids on behalf of the vendor but not more than 3 such bids and only for amounts below the reserve price; any such bid will be audibly announced by the auctioneer as a "vendor's bid";
h) bidding increments will be accepted at the discretion of the auctioneer;
i) the person accepted by the auctioneer as having made the highest bid at or above the reserve price will be the purchaser and that bid will be the purchase price;
j) the auctioneer will not accept a bid made after the fall of the auctioneer's hammer;
k) unless otherwise agreed in writing by the purchaser and the vendor before the commencement of the auction—
    (i) a contract for the sale of the property, in the form displayed by the auctioneer at the auction, will be completed and signed by or on behalf of the purchaser and the vendor immediately after the fall of the hammer; and
    (ii) the purchaser will pay a deposit immediately after the fall of the hammer, as specified in the conditions of auction*;
l) the auctioneer will have irrevocable authority, after the fall of the auctioneer's hammer, to complete and sign the contract on behalf of the purchaser or the vendor, or both; completion and signing under that authority will be at the auctioneer's discretion in the event of breach by the purchaser of any of the conditions of auction;
m) the cooling-off rights under section 5 of the Land and Business (Sale and Conveyancing) Act 1994 do not apply to a sale by auction or a sale on the day of auction to a person who has made a bid in the auction (whether in person or by their proxy or representative).

*__NOTE__: Conditions of auction includes conditions displayed by the auctioneer at the auction as conditions of the auction, together with the standard conditions set out above.

Dummy and vendor bidding

It is against the law for the vendor of the property, or a person acting on behalf of the vendor, to make a bid at the auction. This type of activity is called dummy bidding and can attract a maximum penalty of $20,000.

However, the vendor of the property is entitled to have up to three bids made on their behalf by the auctioneer, who must announce each such bid as a 'vendor bid'. The amount of a vendor bid must be less than the vendor's reserve price.

Interrupting auctions

It is against the law to knowingly prevent a rival bidder from freely bidding at an auction, or to harass a bidder.

It is also against the law to do anything with the intention of preven ting, causing a major disruption to, or causing cancellation of an auction. A maximum penalty of $20,000 applies.

Cooling-off period

There is no cooling-off period when you buy at auction.

If you are the successful bidder at auction no further bids can be made or accepted. You must then sign a binding sale contract as soon as possible after the conclusion of the auction. You will usually be required to pay a deposit at the time. The deposit amount is usually around 10% of the purchase price, however you may seek to negotiate a lesser amount with the agent before the auction.

If the property is passed in at auction and if you made a bid at the auction then any sale contract you enter into before midnight on the same day as the auction, as a result of further negotiations with the vendor, is not subject to a cooling-off period.

Your privacy

The agent is not permitted to disclose information on the bidders register to anyone unless required to by an authorised person under the Fair Trading Act 1987.

Disclaimer: This publication is a plain language guide to your rights and responsibilities. It must not be relied upon as legal advice. For more information please refer to the appropriate legislation or seek independent legal advice.