

**Version No. 001**  
**Sale of Land Regulations 2004**

**S.R. No. 5/2004**

Version as at 1 February 2004

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**1. Objectives**

The objectives of these Regulations are—

- (a) to regulate the conduct of public auctions of land; and
- (b) to prescribe standard rules for the conduct of public auctions of land; and
- (c) to prescribe information statements that must be made available for inspection at public auctions of land.

**2. Authorising provision**

These Regulations are made under section 48 of the **Sale of Land Act 1962**.

**3. Commencement**

These Regulations come into operation on 1 February 2004.

**4. Standard rules for the conduct of auctions for the sale of land**

A public auction for the sale of land must be conducted in accordance with the rules set out in Schedule 1.

**5. How information relating to the auction is to be made available**

- (1) In addition to the requirements of section 43 of the Act, the auctioneer of land at a public auction must ensure that the rules set out in Schedule 1, the information in Schedule 2 and any other conditions applying to the auction are available for public inspection a reasonable time before the auction starts.

Penalty: 5 penalty units.

- (2) In relation to the rules set out in Schedule 1, the auctioneer must also ensure—
- (a) that the rules are printed or typed in black letters on a white background in plain text and in a readily legible font of at least 20 point type; and
  - (b) that it is made clear which of the 2 rules preceded by the expression "\*1" is to apply at the auction.

Penalty: 5 penalty units.

- (3) In making the rules set out in Schedule 1 available for inspection, it is not necessary to show the version of the first rule that does not apply at the auction, nor to show that it was one of 2 alternative choices.

**6. Auctioneer to provide certain information orally before bidding starts**

- (1) Before accepting any bid at a public auction of land, the auctioneer of the land must audibly state—
- (a) that the auction will be conducted in accordance with the rules and any additional conditions that were made available for inspection before the start of the auction; and

- (b) that the auctioneer must indicate bidders on request; and
- (c) that the law—
  - (i) prohibits a person from falsely claiming or falsely acknowledging that he or she made a bid; and
  - (ii) prohibits an intending bidder or a person acting on behalf of an intending bidder from intentionally preventing, or causing a major disruption to, the auction; and
  - (iii) provides for substantial penalties for any person who engages in prohibited conduct.

Penalty: 10 penalty units.

- (2) If the rules for a public auction of land permit the auctioneer to bid on behalf of the vendor, the auctioneer must, in addition to the requirements in sub-regulation (1), before accepting any bid audibly state—
  - (a) the words the auctioneer will use to indicate during the auction that he or she is making a bid on behalf of the vendor; and
  - (b) that the law prohibits the making of a vendor bid other than by the auctioneer.

Penalty: 10 penalty units.

- (3) If the rules for a public auction of land do not permit the auctioneer to bid on behalf of the vendor, the auctioneer of the land must, in addition to the requirements in sub-regulation (1), before accepting any bid at the auction audibly state that the rules for the conduct of the auction do not permit the making of a bid on behalf of the vendor.

Penalty: 10 penalty units.

**7. Auctioneer must indicate bidders on request**

The auctioneer of land at a public auction must, if asked to do so by a person attending the auction, indicate the person who made a bid before taking another bid.

Penalty: 10 penalty units.

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**SCHEDULES**

**SCHEDULE 1**

Regulations 4, 5

**RULES FOR THE CONDUCT OF PUBLIC AUCTIONS OF LAND**

- \*1. No bids may be made on behalf of the vendor of the land.

OR

- \*1. The auctioneer may make one or more bids on behalf of the vendor of the land at any time during the auction.

[\**One of these alternatives must be deleted*]

2. The auctioneer may refuse any bid.
  3. The auctioneer may determine the amount by which the bidding is to be advanced.
  4. The auctioneer may withdraw the property from sale at any time.
  5. The auctioneer may refer a bid to the vendor at any time before the conclusion of the auction.
  6. In the event of a dispute concerning a bid, the auctioneer may re-submit the property for sale at the last undisputed bid or start the bidding again.
  7. If a reserve price has been set for the property and the property is passed in below that reserve price, the vendor will first negotiate with the highest bidder for the purchase of the property.
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**SCHEDULE 2**

Regulation 5

**INFORMATION CONCERNING THE CONDUCT OF PUBLIC AUCTIONS OF LAND****Meaning of Vendor**

The vendor is the person who is selling the property that is being auctioned.

**Vendor bidding**

The law of Victoria allows a vendor to choose to have bids made on his or her behalf at a public auction of land. If a vendor chooses to have bids made on his or her behalf at an auction—

- that fact will be stated as the first rule applying to the auction
- a bid on behalf of the vendor can only be made by the auctioneer
- the auctioneer can only make such a bid if—
  - he or she declares before bidding starts that he or she is allowed to make bids on behalf of the vendor and also states how he or she will indicate that he or she is making such a bid; and
  - he or she states immediately before, or in the process of, making such a bid that it is made on behalf of the vendor.

The usual way for an auctioneer to indicate that he or she is making a bid on behalf of the vendor is to say "vendor bid" in making the bid.

**What rules and conditions apply to the auction?**

The law sets certain rules that are to apply at all public auctions of land. These rules are known as the "Schedule 1 rules". It is also possible that a vendor may choose to have additional conditions apply at the auction. This is only allowed if those additional conditions do not conflict with the Schedule 1 rules or any other requirement imposed by the law. The additional conditions are usually contained in the contract of sale. If there are additional conditions, they also apply to the conduct of the auction in accordance with the law.

**Copies of the rules**

The law requires that a copy of the rules and conditions that are to apply to a public auction of land be made available for public inspection a reasonable time before the auction starts.

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**Questions**

A person at a public auction of land may ask the auctioneer in good faith a reasonable number of questions about the property being sold, the contract of sale, the rules under which the auction is being conducted and the conduct of the auction.

**Forbidden activities at auctions**

The law forbids—

- any person other than the auctioneer bidding on behalf of the vendor
- the auctioneer taking any other bid that he or she knows was made on behalf of the vendor
- the auctioneer acknowledging a bid if no bid was made
- any person asking another person to bid on behalf of the vendor
- any person falsely claiming or falsely acknowledging that he or she made a bid
- an intending bidder or a person acting on behalf of an intending bidder from harassing or interfering with other bidders at a public auction of land.

Substantial penalties apply to any person who does any of the things in this list.

**Who made the bid?**

At any time during a public auction of land, a person at the auction may ask the auctioneer to indicate who made a bid. Once such a request has been made, the auctioneer is obliged by law to comply with such a request before taking another bid.

**It is an offence to disrupt an auction**

The law forbids an intending bidder or a person acting on behalf of an intending bidder from doing any thing with the intention of preventing or causing a major disruption to, or causing the cancellation of, a public auction of land.

**The cooling off period does not apply to public auctions of land**

No cooling off period applies to the purchase of a property made at or within 3 clear business days before or after a public auction of land.



**What law applies**

The information in this document is only intended as a brief summary of the law that applies to public auctions of land in Victoria. Most of the laws referred to in this document can be found in the **Sale of Land Act 1962** or the Sale of Land Regulations 2004. Copies of those laws can be found at the following web site: [www.dms.dpc.vic.gov.au](http://www.dms.dpc.vic.gov.au) under the title "LawToday".

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## ENDNOTES

### 1. General Information

The Sale of Land Regulations 2004, S.R. No. 5/2004 were made on 28 January 2004 by the Governor in Council under section 48 of the **Sale of Land Act 1962**, No. 6975/1962 and came into operation on 1 February 2004: regulation 3.

The Sale of Land Regulations 2004 will sunset 10 years after the day of making on 28 January 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

**2. Table of Amendments**

There are no amendments made to the Sale of Land Regulations 2004 by statutory rules, subordinate instruments and Acts.

**3. Explanatory Details**

No entries at date of publication.