



**BILLE UM CHEANTALAITHE, LUACHALAITHE, AGUS
GNÍOMHAIRI TIGHE AGUS ESTAIT, 1931.
AUCTIONEERS, VALUERS, HOUSE AND ESTATE AGENTS
BILL, 1931.**

Mar do tugadh isteach.

As introduced.

ARRANGEMENT OF SECTIONS.

Section.

1. Short title.
2. Interpretation.
3. Constitution of General Council.
4. First meeting and establishment of the council.
5. Term of office of members of the council.
6. Annual meetings of registered persons.
7. Election and nomination of members of the council.
8. Making of regulations by the council.
9. Power to appoint committees.
10. Appointment and duties of registrar and other officers.
11. The establishment of the register.
12. Powers of council in relation to persons applying for registration.
13. Persons entitled to be registered.
14. Power of council to refuse registration.
15. Power of council to remove from register.
16. Particulars to be inserted in the register, and alterations and amendment of such particulars.
17. Appeals to the High Court in case of failure or refusal to register or erase from the register.
18. Publication and sale of lists of registered auctioneers.
19. Evidence of registration.
20. Orders of Court and of Government Departments to be carried out by registered persons.
21. None save registered persons to hold auctions, etc., or to describe themselves as "Registered."
22. Penalty for falsification of the register.
23. Prosecutions and recovery of fines.
24. Application of sums recovered for fines.
25. Application of moneys coming to the hands of the council.
26. Save as expressly altered, existing law to stand.
27. Dissolution of Irish Auctioneers and Estate Agents' Association.
28. Service of notices by post.

SAORSTÁT EIREANN.

BILLE UM CHEANTALAITHE, LUACHALAITHE, AGUS
GNÍOMHAIRI TIGHE AGUS ESTAIT, 1931.
AUCTIONEERS, VALUERS, HOUSE AND ESTATE AGENTS
BILL, 1931. 5

BILL

entitled

AN ACT TO MAKE PROVISION FOR THE REGISTRATION
AND CONTROL OF AUCTIONEERS, VALUERS, HOUSE
AND ESTATE AGENTS, AND FOR OTHER PURPOSES 10
CONNECTED THEREWITH.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT
EIREANN AS FOLLOWS:—

Short title.

1.—This Act may for all purposes be cited as the Auctioneers,
Valuers, House and Estate Agents Act, 1931. 15

Interpretation.

2.—In this Act—

the expression “the Minister” means the Minister for Industry
and Commerce;

the expression “the association” means the Irish Auctioneers
and Estate Agents Association; 20

the expression “the register” means the Register of Auctioneers,
Valuers, and House and Estate Agents to be established and
maintained pursuant to the provisions of this Act;

the expression “the official list” means the Official List of
Registered Persons to be published by the council in accordance 25
with the provisions of section 12 of this Act;

the word “auction” means a manner of selling or letting
property by bids;

the word “auctioneer” means one who sells goods or other
property by auction; 30

the word “valuer” means any person who holds himself out to
the public as ready to carry on or who carries on the business of
valuing or appraising any interest whatsoever in any kind of
property;

the expression “house and estate agent” means any person who 35
holds himself out to the public as ready to carry on or who carries
on as principal or partner the business of selling, leasing, mort-
gaging, or otherwise arranging for fee or reward between other
persons or between other persons and himself for the transfer of
the ownership of landed property, but shall not include a 40
solicitor or any person who at the passing of this Act is engaged
solely in the business of managing the property of other persons;

the expression “landed property” means any land or interest
therein, and includes houses and parts of houses, furnished and
unfurnished, and all buildings of whatsoever nature or kind; 45

the expression “registered person” means a person for the time
being registered under the provisions of this Act as an auctioneer,
valuer, house and estate agent, or as any one or more or all of
them;

the expression “the council” means the General Council of 50
Registered Auctioneers, Valuers, and House and Estate Agents in
Saorstát Eireann constituted under this Act;

the expression “the registrar” means the person for the time
being appointed to be registrar by the council pursuant to the
provisions of this Act, and shall include any person appointed to 55
perform the duties of the registrar for the time being;

the expression “the institute” means The Chartered Surveyors’
Institution;

the word "year" used in relation to the term of office of the General Council means the period of time between one annual meeting and the ensuing annual meeting, whether such period be greater or less than twelve months.

5 **3.**—(1) A council to be styled "The General Council of Registered Auctioneers, House and Estate Agents" (in this Act referred to as "the council") shall be established in accordance with this Act to fulfil the functions assigned to it by this Act. Constitution of General Council.

10 (2) The council shall be a body corporate having perpetual succession, and may provide itself with a seal, and may sue and be sued and hold and dispose of real and personal property under its said style and name.

15 (3) The first council shall consist of 35 members, of whom (a) two shall be nominated by the Minister; and (b) two by the institute; and the remainder shall be elected by the council of the association.

20 **4.**—(1) As soon as may after the association has elected thirty-one members of the council in accordance with sub-section (3) of section 3 of this Act, the President of the Association shall communicate the fact of their election to the Minister, who shall thereupon nominate two members of the council in accordance with sub-section (3) of section 3 of this Act, and the Minister shall thereupon, by notice in writing sent by post to each of the members of the council so nominated or elected, appoint a time First meeting and establishment of the council.
25 and place for the first meeting of the council.

30 (2) At the same time as he communicates to the Minister the fact of the election of the members of the council as provided by sub-section (1) of this section, the Registrar of the Association shall inform the Minister if the institute has nominated members to the council as provided by sub-section (3) of section 3 of this Act; and if the institute has so nominated members, the registrar shall send by post to each of such members a notice of the time and place of the first meeting of the council.

35 (3) Should the institute fail to nominate members to the first council as provided by this Act, then the council shall meet and function until its first annual meeting as if such members had been nominated, and such failure shall in no way derogate from the powers of the council.

40 (4) The council shall meet at the time and place appointed under sub-section (1) of this section for their meeting, and shall thereupon enter upon their duties under this Act, and, in particular, shall at such meeting or as soon as may be thereafter proceed with the necessary steps for the establishment of the register.

45 (5) The council shall be deemed to be established from the commencement of the meeting to be held under the provisions of this section.

50 **5.**—The members of the first council shall hold office from the date of the establishment of the council in accordance with the provisions of this Act until the first annual meeting of the council, and thereafter the members of the council shall hold office for the period of one year from the date of their nomination or election respectively. Term of office of members of the council.

55 **6.**—(1) An annual meeting of registered persons shall be held in the month of each year corresponding to the month in which the first meeting of the council shall have been held. Annual meetings of registered persons.

(2) The date of such meeting shall, subject to the provisions of sub-section (1) of this section, be fixed by the council.

60 (3) The result of the annual election of the elected members of the council shall be declared at such meeting, and such other business transacted as the council shall, subject to the provisions of this Act, think fit.

Election and nomination of members of the council.

7.—(1) (a) The successors in office of the members of the first council (with the exception of those to be nominated by the Minister, and the institute), shall be elected by ballot of the registered persons, which shall be held in accordance with such regulations as the council may prescribe, and the result of such ballot shall be declared at the annual meeting, but no two members of a firm shall be eligible for election to membership of the council at the same time. 5

(b) Subject to the provisions of paragraph (a) of this subsection, every registered person shall be eligible for election to the council or to any office in or connected therewith. 10

(2) Retiring members of the council shall be eligible for re-election. 15

(3) It shall be the duty of the registrar not less than two months and not more than three months before the date fixed for the annual meeting of registered persons, to send notice to the Minister, and to the institute stating the names of the members of the council nominated respectively by the Minister, and the institute respectively, who retire at such annual meeting, and the registrar shall request the Minister, and the institute, respectively, to furnish him not less than one month before such annual meeting, with the names of the persons to be nominated on the council as the representatives of the Minister, and the institute respectively, and the persons so nominated shall be deemed to be elected as members of the council. 20 25

(4) The members of the council nominated by the Minister, and by the institute, shall hold office for the same term, and shall retire and be eligible for re-nomination to the council in the same way as the ordinary elected members of the council. 30

(5) In the event of the Minister, or the institute failing to furnish the registrar with the names of persons nominated by them to fill the forthcoming vacancies on the council not less than one month before the date fixed for the annual meeting, then upon the declaration of the result of the election of the ordinary members of the council at the annual meeting of registered persons as provided by section 6 of this Act, the council shall be entitled to meet and exercise all the powers by this Act conferred upon it, as if the Minister and the institute had each nominated two members of the council in accordance with sub-section (3) of this section. 35 40

(6) Any vacancy in the council occurring during the year shall be filled for the remainder of that year by the co-option of a registered person, and the member so co-opted shall hold office until the next annual election of members to the council. 45

Making of Regulations by the council.

8.—The council may, subject to the provisions of this Act, by regulations made by it prescribe all or any of the following things, that is to say :—

(a) the procedure of the council at its meetings or otherwise; 50

(b) the form, maintenance and keeping generally of the register;

(c) the form and mode of application for registration in the register and the evidence to be given on such application of the title of the applicant to be so registered; 55

(d) subject to the provisions of this Act and the approval of the Minister, the fees to be paid for the registration of persons and for the retention of persons on the register;

(e) the preparation, printing, publication, price and sale generally of the Official List of Auctioneers, Valuers, and House Agents; 60

(f) the conduct of and proceedings at inquiries into the conduct of registered persons alleged to have been guilty of any act, neglect or default which is dishonourable or discreditable to the business or profession of such persons; 65

- (g) so far as is authorised by this Act, the delegation to the registrar of the powers and duties of the council in relation to the register;
- (h) the entering into or the giving of any bond or surety by an applicant for registration or by any person on his behalf and the amount and conditions of such bond or surety;
- (i) the holding of examinations for applicants for registration, and the subjects for and the times and places of, and the mode of conducting such examinations; the appointment and removal of examiners and the remuneration by fees or otherwise of such examiners, and the certificates to be given to persons of their having passed any examinations under this Act;
- (j) any matter or thing referred to in this Act as prescribed or to be prescribed by regulations made by the council and not hereinbefore expressly mentioned.

9.—The council shall have power to appoint committees from among its own members or from among the general body of registered persons who are not members of the council, or partly from one and partly from the other, to inquire into the suitability of applicants for registration, or to transact such other business or to make such other inquiries as the council shall think fit, and the council may act on the report of any such committee or committees.

Power to appoint committees.

10.—(1) The council shall from time to time appoint a registrar and such other officers as may to them seem necessary for carrying out the provisions of this Act, and shall fix the remuneration, duties and conditions of office of such registrar and officers.

Appointment and duties of registrar and other officers.

(2) It shall be the duty of the registrar to keep the register accurate and up-to-date in accordance with the provisions of this Act, and with such regulations made thereunder as the council may make from time to time.

11.—(1) As soon as may be after the establishment of the council, the council shall prepare and establish, in such form as they may prescribe by regulations made by them, a register of auctioneers, valuers, and house and estate agents, to be known as "The Register of Auctioneers, Valuers, and House and Estate Agents," and in this Act referred to as the register.

The establishment of the register.

(2) As soon as the council is in a position to appoint a date for the establishment of the register, and in any event not later than six months after the establishment of the council, the council shall communicate in writing to the Minister the date on which they desire the register to be established, and thereupon the Minister shall, by notice published by him in the *Iris Oifigiúil*, declare that the register shall be established as on and from the date so communicated to him, or such other date as the Minister, after consultation with the council, may think proper to specify in such notice.

(3) The notice to be published in the *Iris Oifigiúil* pursuant to the foregoing sub-section, shall be so published not less than one month before the date specified therein for the establishment of the register.

(4) All references in this Act to the date of the establishment of the register, shall be construed as referring to the date declared by the Minister under this section to be the date as on and from which the register shall be established.

(5) From and after the establishment of the register the council shall maintain and keep the register in accordance with this Act and the regulations made by the council thereunder.

12.—The council shall have power at any time to require that persons applying for registration shall—

Powers of council in relation to persons applying for registration.

- (a) enter into a bond or procure some person or persons to enter into a bond on behalf of the person so applying, to secure the proper performance of his duties as a

registered person, or his solvency, or both, or upon such other conditions as the council shall think fit from time to time to impose for the better carrying out of the provisions of this Act;

- (b) pass a qualifying examination in accordance with the regulations. 5

Persons entitled to be registered.

13.—(1) The following persons shall, subject to the provisions of this Act, be entitled to apply to be registered under this Act—

- (a) every person who is a member of the Irish Auctioneers and Estate Agents' Association at the time of the passing of this Act, and who shall give notice to the council of his intention to practise as a registered person in Saorstát Eireann; 10
- (b) any person who at the time of the passing of this Act is a practising auctioneer, valuer, or house and estate agent in Saorstát Eireann, and who agrees to pay such fees and conform to such conditions as the council shall prescribe; 15
- (c) any person who applies to the council to be registered as an auctioneer, valuer, or house and estate agent, or any one or more or all of them, and who complies with the regulations concerning registration under this Act. 20

(2) Every applicant for registration who has been approved of by the council and who has paid his licence duty as an auctioneer, valuer, house and estate agent, or one or more of such duties, and who shall have entered into such bond or surety and passed such qualifying examination as the council may require, and who is not disqualified by any of the provisions of the Act or of the regulations made thereunder, shall, upon payment of the prescribed fees for the current year, be entitled to registration under this Act, and shall continue to be so entitled so long as he shall pay such licence duties and prescribed fees, and shall not become disqualified by the breach or non-observance of any of the provisions of this Act or of such regulations. 25 30 35

Power of council to refuse registration.

14.—(1) Notwithstanding any provision in this Act contained, the council may refuse to register under this Act—

- (a) any person who has been convicted by any court of competent jurisdiction within or without Saorstát Eireann of any offence which in the opinion of the council unfits him for registration, or who has been found guilty by any such court of any fraud; 40
- (b) any person guilty of any act, default, or practice which the council considers dishonourable or discreditable in his business or profession; 45
- (c) any person who is or has been bankrupt or insolvent, or who has made an arrangement with his creditors, or assigned his property for the benefit of creditors; 50
- (d) any person who has been excluded from membership of the Institute, the Surveyors' Institute of England, the Auctioneers and Estate Agents' Institute of the United Kingdom, or the Incorporated Society of Auctioneers and Landed Property Agents, or has been refused a licence as auctioneer, or who has been suspended from membership of any of the said bodies; 55
- (e) any person carrying on any business or occupation which in the interest of the public the council consider a registered person ought not to carry on, and who refuses to discontinue such business though requested to do so by the council. 60

(2) An applicant for registration who shall have been rejected shall not be eligible to apply again for registration until the expiration of six months from the time of his rejection.

15.—The council may at any time by resolution remove from the register the name of any registered person, on any ground on account of which they are empowered to refuse registration, or on the ground that such name has been erroneously or improperly entered on the register; or on the ground that such person has failed to pay any fees due by him under the provisions of this Act or of the regulations, within six months after demand made by registered letter addressed to his registered address, or on the ground that such person has been guilty of an offence under this Act, or wilful or continued breaches of the regulations. Upon the passing of any such resolution, the registrar shall forthwith delete such name from the register:

Power of council to remove from register.

Provided that the council shall have power by resolution at any time to order that any name so removed and deleted be entered in or restored to the register, and such resolution may or may not rescind the resolution removing such name, and may be subject to such conditions (if any) as the council think fit.

16.—(1) The registrar shall from time to time insert in the register any alterations which shall come to his knowledge in the name or address or description of any registered person, or in any other particulars entered on the register, and shall remove from the register the name of every deceased person, and may remove from the register the name of any person who has ceased to practise but not without the consent of such person save as hereinafter provided.

Particulars to be inserted in the register, and alterations and amendment of such particulars.

(2) When the registrar has reason to believe that any person has ceased to practise, he shall send by registered post to the last registered address of such person a notice enquiring whether he has ceased to practise, and if such registered letter is returned by the post office, or if the registrar does not within three months from the date of such notice receive a satisfactory answer from such person, the registrar may within fourteen days report the matter to the council, who may either resolve that the name of such person be removed from the register or may direct further enquiry to be made.

(3) Subject to any direction of the council, the registrar in the execution of his duties may act upon such evidence as to him in each case appears sufficient, and may in any case require such evidence to be verified by statutory declaration.

17.—(1) Whenever the council—

(a) refuses or fails to register the name of a person who has duly applied for such registration; or

(b) erases the name of a person from the register on account of his failure to pay an annual fee or on account of professional misconduct; or

(c) refuses an application for restoration to the register made by a person whose name has been erased from the register on account of professional misconduct;

Appeals to the High Court in case of failure or refusal to register or erase from the register.

such person may, in the case of a failure to register, within six months after his application for registration, or, in any other case, within three months after receiving from the council notice under this Act of the refusal or erasure (as the case may be), appeal to the High Court in accordance with Rules of Court, against such failure, refusal, or erasure, as the case may be.

(2) On the hearing of such an appeal under this section, the High Court may give such directions as it thinks proper, including a direction that the name of the appellant be registered in or restored to the register as from the date of the order of the court, or any earlier date, and directions as to how the costs of the appeal are to be borne.

(3) On the hearing of an appeal under this section from the erasure of the name of a person from the register by the council on account of professional misconduct, or from a refusal by the council of an application for restoration to the register made by a person whose name has been erased from the register by the

council on account of professional misconduct, the High Court may, if it thinks proper so to do admit and have regard to the evidence of persons of standing in the professions of auctioneer, valuer, or house and estate agent, or of persons of standing exercising one or more of such professions, as to what is conduct disgraceful to a registered person or to a person seeking to be registered. 5

(4) Whenever the High Court on an appeal under this section directs the name of a person to be registered in or restored to the register, the council shall register or restore (as the case may require), the name of such person in or to the register in all respects with such direction. 10

(5) The decision of the High Court on an appeal under this section shall be final and conclusive and shall not be subject to appeal to any other court or tribunal. 15

Publication and sale of Lists of Registered Auctioneers.

18.—The council shall cause an official list of the names and addresses of registered persons to be prepared and printed annually under their direction, and copies thereof to be sold at a price to be determined by them.

Such list shall contain such particulars and be arranged in such form as the council shall direct, but the council shall not be answerable for any error, misstatement, or omission therein. 20

Evidence of registration.

19.—A copy of the official list for the time being, purporting to be printed and published in pursuance of this Act, shall be evidence in all cases (until the contrary be made to appear) that the persons therein named are registered according to the provisions of this Act, and the absence of the name of any person from such copy of the official list shall be evidence (until the contrary be made to appear) that such person is not so registered: provided that in the case of any person whose name does not appear in such copy a certified copy under the hand of the registrar of the entry of the name of such person in the register, shall be evidence that such person is registered according to the provisions of this Act. 25 30

Orders of court and of Departments of State to be carried out by registered persons.

20.—Where by an Act or bye-law or statutory rule made thereunder, or by the order of any court, or of any Minister in charge of a Department of State, or of any officer of a Department of State, any duties or functions are required to be performed by an auctioneer, valuer, or house and estate agent (other than a person in the whole-time employment of the State) such auctioneer, valuer, or house and estate agent shall be a registered person. 35 40

None save registered persons to hold auctions, etc., or to describe themselves as "Registered."

21.—(1) From and after the first day of January, 1932, it shall not be lawful for any person who is not registered under this Act (save and except (a) a person carrying on as principal or partner the sole business of managing the landed property of other persons; (b) a limited company, firm or person having entered into an agreement in writing with the council to be bound by the regulations, and having in his or their employment a registered person at an annual salary to perform such duties as may not under the provisions of this Act be performed by any person save a registered person)— 45 50

(i) to take or use in Saorstát Eireann any name, title, addition, or description stating or implying, or calculated to lead any person to believe that he is—

(a) a registered auctioneer, registered valuer, registered house and estate agent; 55

(b) a practising auctioneer, valuer, or house and estate agent;

(ii) to hold himself out to the public as being ready to undertake (either with or without remuneration) business as a practising auctioneer, valuer, or house and estate agent; 60

(iii) to exercise any function which, according to law, has hitherto been exercised by an auctioneer, valuer, or house and estate agent; 65

(iv) to hold any auction or auctions whether of his own property or the property of other persons.

5 (2) Any person acting in contravention of the provisions of this section shall be guilty of an offence under this Act, and shall be liable upon summary conviction for such offence to a fine not exceeding fifty pounds and shall be liable to a further fine not exceeding twenty pounds per day for every day on which the offence is repeated after his first conviction, or to imprisonment with or without hard labour for a period not exceeding twelve
10 months.

22.—Any person who wilfully makes or causes to be made or aids or abets any falsification in any matter relating to the register, shall be deemed guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, or to be imprisoned with or without hard labour for any term not exceeding twelve
15 months.

Penalty for falsification of the register.

23.—All offences under sections 21 and 22 of this Act may be prosecuted, and all fines may be recovered in a summary manner under the Summary Jurisdiction Act. Any prosecution under the
20 provisions of this Act may be instituted by the State or by the council or by any private person with the consent of the council, of which consent a certificate under the hand of the registrar shall be sufficient evidence, but save as aforesaid no prosecution under this Act shall be instituted by a private person.

Prosecutions and recovery of fines.

24.—In the case of any prosecution instituted under this Act, by the council or by a private person, with the consent of the council, all sums of money arising from conviction and recovery of fines or penalties as a result of such prosecution shall be paid to the registrar on behalf of the council.

Application of sums recovered for fines.

25.—(1) All fees paid under or by virtue of this Act shall be paid to the council or to the registrar on their behalf, and all moneys received by the council shall be applied in payment of expenses incurred under the provisions of this Act, or in giving effect to and enforcing the same, or in exercising any of the powers
30 by this Act conferred upon the council, and any surplus may be applied towards any provident or other fund for the benefit of registered persons or their dependents, or towards the education or for the benefit or assistance of persons desiring to become registered persons, or in providing prizes and other rewards for
35 such persons, in such manner as the council shall from time to time think fit, with power to the council to invest any moneys from time to time in their hands, and to invest or apply resulting income as aforesaid.

Application of moneys coming to the hands of the council.

(2) The council shall keep proper accounts of all their income
45 and expenditure under this Act, and such accounts shall be audited annually, and copies of such audited accounts shall, upon the application of any registered person, be supplied to him without charge. The first auditor or auditors shall be appointed by the council, and subsequent auditors shall be appointed at the annual
50 meetings of persons registered under this Act.

26.—(1) Save as is in this Act expressly provided, nothing in this Act shall be deemed to alter any of the provisions of the existing law affecting auctioneers, valuers, or house and estate agents in Saorstát Eireann.

Save as expressly altered, existing law to stand.

55 (2) Nothing in this Act shall be construed as releasing any person from the obligation to take out a licence as may be required by law for the performance of any function or the exercise of any power for which a licence would have been required if this Act had not been passed, or to pay the fees
60 payable upon the taking out of any such licence.

(3) Nothing contained in this Act shall be construed to affect in any manner whatsoever any right, privilege or immunity conferred upon and enjoyed by solicitors, surveyors and architects

while practising as such by any Act or by any rule or order made under any Act or to affect any right or privilege enjoyed by solicitors, surveyors and architects by custom or otherwise; nor shall anything in this Act be construed to authorise a registered person to do or perform any act or thing which before the passing of this Act was exclusively within the right or privilege of solicitors or surveyors or architects to do or perform. 5

Dissolution of
Irish Auctioneers
and Estate
Agents
Association.

27.—(1) The association shall be deemed to have been voluntarily wound up and shall be dissolved on the 31st December, 1931, from which date all its assets and liabilities shall vest in the council 10

(2) Immediately upon the dissolution of the association, the registrar shall request the registrar of public companies to delete the name of the association from the register of public companies, and the name shall thereupon be deleted, and the assets and liabilities of the said association shall be transferred and become the property of the council. 15

Service of
notices by post.

28.—(1) Any notice or document required for the purposes of this Act to be sent, may be sent by post, and when sent to a registered person under this Act shall be deemed to be properly addressed if addressed to him at his registered address, and shall be deemed to be properly served if so addressed and put in the post. 20

(2) Any notice relating to the refusal to register any person or to the removal from the register of the name of any person registered under this Act or to the refusal by the council to permit the name of any person after removal from the register to be again entered thereon shall be sent by post as a registered letter. 25

Statistical Abstract

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FOR THE YEAR 1900
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VOLUME II
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TABLE

TABLE

Saorstát Éireann.

BILLE UM CHEANTALAITHE, LUACH-
ALAITHE, AGUS GNÍOMHAIRÍ TIGHE
AGUS ESTAIT, 1931.

BILLE

(mar do tugadh isteach)

dá ngairmtear

Acht chun soerú do dhéanamh chun ceantálaithe, luachálaithe, agus gníomhairí tighe agus estait do chlárú agus do rialú agus chun crícheanna eile bhaineas leis sin.

Pádraig O Lionnáin do thug isteach agus Alasdair Haslett, Seán Mac Cumhaill agus Mícheál Og Mac Pháidín ag cuidiú leis.

Do hordúidh, ag Dáil Éireann, do chlóbhuála, 20adh Bealtaine, 1931.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

Le ceannach trí aon díoltóir leabhar, no díreach ó Oifig Díolta Foillseacháin Rialtais, 5, Sráid Thobair Phádraig, Baile Átha Cliath. C.2.

Clóbhuailte ag CAHILL AND CO., LTD

[Leath-Raol Glan.]

Wt. 6—976. 575. 5/31. C.&Co. (761).

Saorstát Éireann.

AUCTIONEERS, VALUERS, HOUSE AND
ESTATE AGENTS BILL, 1931.

BILL

(as introduced)

entitled

An Act to make provision for the registration and control of auctioneers, valuers, house and estate agents, and for other purposes connected therewith.

Introduced by Deputy Patrick Leonard, supported by Deputies Alexander Haslett, John J. Cole and Mícheál Og Mac Pháidín.

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