

## **The Banker's Books Evidence Act 1891**

The Banker's, Books Evidence Act, 1891

[Act No.18 of 1891]

An Act to amend the Law of Evidence with  
respect to Banker's Books

Whereas it is expedient to amend the law of Evidence with respect to Banker's Books: It is hereby enacted as follows:

1. Title and Extent. -

(1) This Act may be called Banker's Books Evidence Act, 1891.

( 2) It extends to the whole of India [except the State of Jammu and Kashmir]

2. Definitions.-In this Act, unless there is something repugnant in the subject or context. -

(1) "company" means any company as defined in Section 3 of the Companies Act, 1956.91 of 1956), and includes a foreign company within the meaning of Section 591 of that Act;

(1-A) "corporation" means any body corporate established by any law for the time being in force in India and includes the Reserve bank of India, the State Bank of India and any subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 938 of 1959)];

(2) "Bank" and "Banker" means.

(a) any company or corporation carrying on the business of banking;

(b) any partnership or individual to show books the provisions of this Act shall have been extended as hereinafter provided;

(c) any post-office savings Bank or a money order office;]

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a Bank;

(4) "legal proceeding" means.-

(i) any proceeding or inquiry in which evidence is or may be given;

(ii) an arbitration; and

(iii) any investigation or inquiry under the Code of Criminal Procedure, 1973 (2 of 1974), or under any other law for the time being in force for the collection of evidence, conducted by a police officer or by any other person (not being a Magistrate) authorized in this behalf by a Magistrate or by any law for time being in force;

(5) "the Court" means persons before whom a legal proceeding is half or take

(6) "Judge: means a Judge of High Court

(7) "trial" means any hearing before the Court at which evidence is taken; and

(8) "certified copy" means a copy of an entry in the books of a Bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the Bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the Bank [and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the Bank with his name and official title].

3. Power to extend provisions of Act.- The Provincial Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

4. Mode of Proof of Entries in Banker's Books.- Subject to the provisions of this Act, a certified copy of any entry in a banker's books shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts, therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

5. Case in which officer of bank not Compellable to Produce Books.- No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

6. Inspection of Books by Order of Court or Judge.-

(1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings, or may order the Bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries accompanied by a further certificate that no other entries are to be found in the books of the Bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinafter directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the Bank, and shall be served on the Bank three clear days (exclusive of Bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.

(3) The Bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial to give notice or their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

(4) Costs.-

(1) The cost of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done, or purposes of this Act shall be in the discretion of the Court Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequences of any fault or improper delay on the part of the Bank.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the Bank were a party to the proceedings.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself;

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

[8. Order of Court to be construed to be order made by specified officer.- In the application of Sections 5, 6 and 7 of any investigation or inquiry referred to in sub-clause (iii) of Clause (4) of Section 2, the Order of a Court or a Judge referred to in the said section shall be construed as referring to an order made by an officer of a rank not lower than the rank of a Superintendent of Police as may be specified in this behalf by the appropriate Government.

Explanation.- In this section. "appropriate Government: means the Government by which the police officer or any other person conducting the investigation or inquiry is employed.]