



MONTSERRAT

CHAPTER 2.18

BANKER'S BOOKS (EVIDENCE) ACT

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

BANKER'S BOOKS (EVIDENCE) ACT

Act 2 of 1881 .. in force 21 November 1881

Amended by Act 2 of 1971 .. in force 1 February 1971

Amended by S.R.O.: 15/1956

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BANKER'S BOOK (EVIDENCE) ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 2.18

BANKER'S BOOKS (EVIDENCE) ACT

(Acts 2 of 1881, 2 of 1971 and S.R.O. 15/1956)

Commencement

[21 November 1881]

Short title

1. This Act may be cited as the Banker's Books (Evidence) Act.

Interpretation

2. In this Act—

“bank” or **“banker”** means any person, persons, partnership, or company carrying on the business of bankers;

“banker's books” includes ledgers, day books, cash books, account books, and all other books used in the ordinary business of the bank;

“the Court” means the Court, Judge, arbitrator, person, or persons before whom a legal proceeding is held or taken;

“legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes an arbitration.

Mode of proof of entry in banker's book

3. Subject to the provisions of this Act, a copy of any entry in a banker's book shall, in all legal proceedings, be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded.

Proof that book is a banker's book

4. A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be first proved that the book was, at the time of the making of the entry, one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the banker. Such proof may be given by a partner or officer of the bank, and may be given orally, or by an affidavit sworn before any Commissioner or person authorized to take affidavits.

Verification of copy

5. A copy of an entry in a banker's book shall not be received in evidence under this Act, unless it be further proved that the copy has been examined with the original entry and is correct. Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally, or by an affidavit sworn before any Commissioner or person authorized to take affidavits.

Case in which banker, etc., not compellable to produce books

6. A banker or officer of a bank, shall not, in any legal proceeding to which the banker 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 a Judge made for special cause.

Court or Judge may order inspection

7. On the application of any party to a legal proceeding, a Court or 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 proceeding. An order under this section may be made either with, or without, summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the Court or Judge otherwise directs.

Costs

8. The costs of any application to a Court or Judge under the provisions of this Act, and the costs of anything done or to be done under an order of a Court or Judge, made under or for the purposes of this Act, shall be in the discretion of the Court or Judge, who may order the same, or any part thereof, to be paid to any party by the bank, where the same have been occasioned by any default or delay on the part of the bank. Any such order against a bank may be enforced as if the bank was a party to the proceeding.

Computation of time

9. Saturday, Sunday, Christmas Day, Good Friday, and any public holiday shall be excluded from the computation of time under this Act.

(Amended by Act 2 of 1971)

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