

BANKERS' BOOKS EVIDENCE ACT, 1891

18 of 1891

[1st October, 1891]

CONTENTS

1. Title and extent
2. Definitions
3. Powers to extend provisions of Act
4. Mode of proof of entries in bankers books
5. Case in which officer of bank not compellable to produce books
6. Inspection of books by order of Court or Judge
7. Costs
8. Order of court to be construed to be order made by specified officer

BANKERS' BOOKS EVIDENCE ACT, 1891

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"The object of this Bill is to apply to British India the provisions of the English Bankers' Books Evidence Act, 1879, under which copies of entries in bankers' books are made receivable in evidence under certain conditions", Gazette of India 1891, Part V, page 24.

1. Title and extent :-

(1) This Act may be called The Bankers' Books Evidence Act, 1891.

(2) It extends to ³[the whole of India ³except the State of Jammu and Kashmir].[* * *]⁴⁵ [* * * * *]

[a] Substituted for the words "all the Provinces of India" words "the whole of India except the Part B State" by A. L. 0.1950.

[b] Substituted for the words "except Part B States" by Part B States (Laws) Act, 1951 (3 of 1951). S.3 and Schedule.

[c] Word "and" at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and Amending Act, 1914 (10 of 1914). The Act has been declared to be in force in the Sonthal Parganas by the sonthal Parganas Settlement Regulation (3 of 1872), S. 3 (as amended by Regn. 3 of 1899, S. 3). The Act has

been extended to the new Provinces and merged States by the Merged States (Laws) Act, 1949 (59 of 1949), S. 3(1-1-1950) and to the Union Territories of Manipur and Tripura (Now both are States) by the Union Territories (Laws) Act, 1950 (30 of 1950), S. 3 (16-4-1950). The Act has been extended to the merged States in the State of Bombay - See Bom. Act 4 of 1950. Act extended to Sikkim on 22-7-1983 and enforced in Sikkim on 1-9-1984 - See SO 529(E) of 1983 Gaz. of Ind. 29-7-1983. Pt.II-S.3(ii),Ext., p. 4 (No. 329) and S.O. 659 (E) of 1984 - Gaz. of Ind., 30-8-1984, Pt. II S.3(ii) Ext., p. 1 (No. 415). The Act has been extended also to Berar by Berar Laws Act, 1941 (4 of 1941), Ss. 2(1) and 3 and Schedule 1(17-3-1941); the Union Territories of Laccadive, Minicoy and Amindivi Islands (Now known as Lakshadweep Islands) by Regulation 8 of 1965. S. 3(l) and Schedule (1-10-1967); and Pondicherry by the Pondicherry (Extension of Laws) Act, 1968 (26 of 1968), S.3(i) and Schedule, Pt. 1 (1-8-1968). The Act is further made applicable to- Industrial Finance Corporation Act, 15 of 1948, S-31. Books of Financial Corporation - See Act 63 of 1951, S. 44. Books of Agricultural Refinance Corporation - See Act 10 of 1963, S. 36; Books of Unit Trust - See Act 52 of 1963, S. 33; Books of Industrial Development Bank - See Act 18 of 1964, S. 33; Books of State Agricultural Credit Corporation - See Act 60 of 1968, S. 37.

2. Definitions :-

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

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

(1A) "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 State Bank of India (Subsidiary Banks) Act, 1959.]

(2) "bank" and "banker", mean-

7[(a) any company or corporation carrying on the business of banking.]

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

8[(c) any post office savings bank or money order office;]

9(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other records used in the ordinary business

of the bank, whether these records are kept in written form or stored in a micro film, magnetic tape or in any other form of mechanical or electronic data retrieval mechanism, either onsite or at any offsite location including a back-up or disaster recovery site of both;

10[(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 Code of Criminal Procedure, 1973 , 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) authorised in this behalf by a magistrate or by any law for the time being in force:]

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken,

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

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

(8) "certified copy" means a copy of any 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 **11**[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 has been destroyed in the usual course of the bank's business after the date on which the copy-had been so 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].

(a)[* * *]

(b)[* * *]

12 (c) a printout of any entry in the books of a bank stored in a micro film, magnetic tape or in any other form of mechanical or

electronic data retrieval mechanism obtained by a mechanical or other process which in itself ensures the accuracy of such printout as a copy of such entry and such printout contains the certificate in accordance with the provisions of Section 2-A.

[a] Substituted for previous clause (1) by the State-Associated Banks (Miscellaneous Provisions) Act. 1962(56 of 1962) S.4(i) (14-12-1962).

[b] Substituted for previous sub-clause (a) of clause (2). the State-Associated Banks (Miscellaneous Provisions) Act. 1962. S.4(ii) (14-12-1962).

[c] Added by the Bankers' Books Evidence Act (1 of 1891), S. 2. In Section 2 clause (3) shall be substituted by Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 (Act 55 of 2002), published in the Gazette of India. Extra.. Part II, Section 1, dated 18th December, 2002, pp. 1-5, No. 67.

[d] Substituted by the Banking Laws (Amendment) Act (1 of 1984). S. 2 (15-2-1984).

[e] Substituted for the words "such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title", the Banking Laws (Amendment) Act (1 of 1984).

In Section 2, in clause (8) sub clause (c) shall be inserted Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 (Act 55 of 2002), published in the Gazette of India. Extra.. Part II, Section 1, dated 18th December, 2002, pp. 1-5, No. 67.

3. Powers to extend provisions of Act :-

The ¹³ [State 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 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.

[a] Substituted for the words "Provincial Government" by A. L. O. 1950.

4. Mode of proof of entries in bankers books :-

Subject to the provisions of this Act, a certified copy of any entry in a banker's book 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 proceeding, 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 hereinbefore 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 or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. Costs :-

(1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or 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 consequence 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 proceeding.

(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 section 5 , section 6 and section 7 to 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 sections 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.